CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2) to make certain laws applicable to the legislative branch of the Federal Government.

The Clerk read as follows:

S. 2

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Congressional Accountability Act of 1995''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—GENERAL

SEC. 101. DEFINITIONS.

Except as otherwise specifically provided in this Act, as used in this Act:

(1) BOARD.—The term ''Board'' means the Board of Directors of the Office of Compliance.

(2) CHAIR.—The term ''Chair'' means the Chair of the Board of Directors of the Office of Compliance.

(3) COVERED EMPLOYEE.—The term ''covered employee'' means any employee of—

(A) the House of Representatives;
(B) the Senate;
(C) the Capitol Guide Service;
(D) the Capitol Police;
(E) the Congressional Budget Office;
(F) the Office of the Architect of the Capitol;
(G) the Office of the Attending Physician;
(H) the Office of Compliance; or
(I) the Office of Technology Assessment.

(4) EMPLOYEE.—The term ''employee'' includes an applicant for employment and a former employee.

(5) EMPLOYEE OF THE OFFICE OF THE ARCHITECT OF THE CAPITOL.—The term ''employee of the Office of the Architect of the Capitol'' includes any employee of the Office of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants.

(6) EMPLOYEE OF THE CAPITOL POLICE.—The term ''employee of the Capitol Police'' includes any member or officer of the Capitol Police.

(7) EMPLOYEE OF THE HOUSE OF REPRESENTATIVES.—The term ''employee of the House of Representatives'' includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (C) through (I) of paragraph (3).

(8) EMPLOYEE OF THE SENATE.—The term ''employee of the Senate'' includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (C) through (I) of paragraph (3).

(9) EMPLOYING OFFICE.—The term ''employing office'' means—

(A) the personal office of a Member of the House of Representatives or of a Senator;

(B) a committee of the House of Representatives or the Senate or a joint committee;

(C) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(D) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(10) EXECUTIVE DIRECTOR.—The term ''Executive Director'' means the Executive Director of the Office of Compliance.

(11) GENERAL COUNSEL.—The term ''General Counsel'' means the General Counsel of the Office of Compliance.

(12) OFFICE.—The term ''Office'' means the Office of Compliance.

SEC. 102. APPLICATION OF LAWS.

(a) LAWS MADE APPLICABLE.—The following laws shall apply, as prescribed by this Act, to the legislative branch of the Federal Government:

(1) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(2) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(4) The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.).

(5) The Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.).

(6) The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(7) Chapter 71 (relating to Federal service labor-management relations) of title 5, United States Code.

(8) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.).

(9) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.).

(10) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(11) Chapter 43 (relating to veterans' employment and reemployment) of title 38, United States Code.

(b) LAWS WHICH MAY BE MADE APPLICABLE.—

(1) IN GENERAL.—The Board shall review provisions of Federal law (including regulations) relating to (A) the terms and conditions of employment (including hiring, promotion, demotion, termination, salary, wages, overtime compensation, benefits, work assignments or reassignments, grievance and disciplinary procedures, protection from discrimination in personnel actions, occupational health and safety, and family and medical and other leave) of employees, and (B) access to public services and accommodations,

(2) BOARD REPORT.—Beginning on December 31, 1996, and every 2 years thereafter, the Board shall report on (A) whether or to what

degree the provisions described in paragraph (1) are applicable or inapplicable to the legislative branch, and (B) with respect to provisions inapplicable to the legislative branch, whether such provisions should be made applicable to the legislative branch. The presiding officers of the House of Representatives and the Senate shall cause each such report to be printed in the Congressional Record and each such report shall be referred to the committees of the House of Representatives and the Senate with jurisdiction.

(3) REPORTS OF CONGRESSIONAL COMMITTEES.—Each report accompanying any bill or joint resolution relating to terms and conditions of employment or access to public services or accommodations reported by a committee of the House of Representatives or the Senate shall—

(A) describe the manner in which the provisions of the bill or joint resolution apply to the legislative branch; or

(B) in the case of a provision not applicable to the legislative branch, include a statement of the reasons the provision does not apply.

On the objection of any Member, it shall not be in order for the Senate or the House of Representatives to consider any such bill or joint resolution if the report of the committee on such bill or joint resolution does not comply with the provisions of this paragraph. This paragraph may be waived in either House by majority vote of that House.

TITLE II—EXTENSION OF RIGHTS AND PROTECTIONS

PART A—EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, FAIR LABOR STANDARDS, EMPLOYEE POLYGRAPH PROTECTION, WORKER ADJUSTMENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS, AND INTIMIDATION

SEC. 201. RIGHTS AND PROTECTIONS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, THE REHABILITATION ACT OF 1973, AND TITLE I OF THE AMERICANS WITH DISABILITIES ACT OF 1990.

(a) DISCRIMINATORY PRACTICES PROHIBITED.—All personnel actions affecting covered employees shall be made free from any discrimination based on—

(1) race, color, religion, sex, or national origin, within the meaning of section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2);

(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

(3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112–12114).

(b) REMEDY.—

(1) CIVIL RIGHTS.—The remedy for a violation of subsection (a)(1) shall be—

(A) such remedy as would be appropriate if awarded under section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g)); and

(B) such compensatory damages as would be appropriate if awarded under section 1977 of the Revised Statutes (42 U.S.C. 1981), or as would be appropriate if awarded under sections 1977A(a)(1), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes (42 U.S.C. 1981a(a)(1), 1981a(b)(2), and 1981a(b)(3)(D)).

(2) AGE DISCRIMINATION.—The remedy for a violation of subsection (a)(2) shall be—

(A) such remedy as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)); and

(B) such liquidated damages as would be appropriate if awarded under section 7(b) of such Act (29 U.S.C. 626(b)).

In addition, the waiver provisions of section 7(f) of such Act (29 U.S.C. 626(f)) shall apply to covered employees.

(3) DISABILITIES DISCRIMINATION.—The remedy for a violation of subsection (a)(3) shall be—

(A) such remedy as would be appropriate if awarded under section 505(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 794a(a)(1)) or section 107(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(a)); and

(B) such compensatory damages as would be appropriate if awarded under sections 1977A(a)(2), 1977A(a)(3), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes (42 U.S.C. 1981a(a)(2), 1981a(a)(3), 1981a(b)(2), and 1981a(b)(3)(D)).

(c) APPLICATION TO GENERAL ACCOUNTING OFFICE, GOVERNMENT PRINTING OFFICE, AND LIBRARY OF CONGRESS.—

(1) SECTION 717 OF THE CIVIL RIGHTS ACT OF 1964.—Section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) is amended by—

(A) striking ''legislative and'';

(B) striking ''branches'' and inserting ''branch''; and

(C) inserting ''Government Printing Office, the General Accounting Office, and the'' after ''and in the''.

(2) SECTION 15 OF THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.—Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by—

(A) striking ''legislative and'';

(B) striking ''branches'' and inserting ''branch''; and

(C) inserting ''Government Printing Office, the General Accounting Office, and the'' after ''and in the''.

(3) SECTION 509 OF THE AMERICANS WITH DISABILITIES ACT OF 1990.—Section 509 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209) is amended—

(A) by striking subsections (a) and (b) of section 509;

(B) in subsection (c), by striking ''(c) INSTRUMENTALITIES OF CONGRESS.—'' and inserting ''The General Accounting Office, the Government Printing Office, and the Library of Congress shall be covered as follows:'';

(C) by striking the second sentence of paragraph (2);

(D) in paragraph (4), by striking ''the instrumentalities of the Congress include'' and inserting ''the term 'instrumentality of the Congress' means'', by striking ''the Architect of the Capitol, the Congressional Budget Office'', by inserting ''and'' before ''the Library'', and by striking ''the Office of Technology Assessment, and the United States Botanic Garden'';

(E) by redesignating paragraph (5) as paragraph (7) and by inserting after paragraph (4) the following new paragraph:

''(5) ENFORCEMENT OF EMPLOYMENT RIGHTS.—The remedies and procedures set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) shall be available to any employee of an instrumentality of the Congress who alleges a violation of the rights and protections under sections 102 through 104 of this Act that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.''; and

(F) by amending the title of the section to read ''**INSTRUMENTALITIES OF THE CONGRESS**''.

(d) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act.

SEC. 202. RIGHTS AND PROTECTIONS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

(a) FAMILY AND MEDICAL LEAVE RIGHTS AND PROTECTIONS PROVIDED.—

(1) IN GENERAL.—The rights and protections established by sections 101 through 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 through 2615) shall apply to covered employees.

(2) DEFINITION.—For purposes of the application described in paragraph (1)—

(A) the term ''employer'' as used in the Family and Medical Leave Act of 1993 means any employing office, and

(B) the term ''eligible employee'' as used in the Family and Medical Leave Act of 1993 means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy, including liquidated damages, as would be appropriate if awarded under paragraph (1) of section 107(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617(a)(1)).

(c) APPLICATION TO GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—

(1) AMENDMENTS TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.—

(A) COVERAGE.—Section 101(4)(A) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611(4)(A)) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ''; and'', and by adding after clause (iii) the following:

''(iv) includes the General Accounting Office and the Library of Congress.''.

(B) ENFORCEMENT.—Section 107 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617) is amended by adding at the end the following:

''(f) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—In the case of the General Accounting Office and the Library of Congress, the authority of the Secretary of Labor under this title shall be exercised respectively by the Comptroller General of the United States and the Librarian of Congress.''.

(2) CONFORMING AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 6381(1)(A) of title 5, United States Code, is amended by striking ''and'' after ''District of Columbia'' and inserting before the semicolon the following: '', and any employee of the General Accounting Office or the Library of Congress''.

(d) REGULATIONS.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement the rights and protections under this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

(2) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—Subsection (c) shall be effective 1 year after transmission to the Congress of the study under section 230.

SEC. 203. RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938.

(a) FAIR LABOR STANDARDS.—

(1) IN GENERAL.—The rights and protections established by subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 (a)(1) and (d), 207, 212(c)) shall apply to covered employees.

(2) INTERNS.—For the purposes of this section, the term ''covered employee'' does not include an intern as defined in regulations under subsection (c).

(3) COMPENSATORY TIME.—Except as provided in regulations under subsection (c)(3), covered employees may not receive compensatory time in lieu of overtime compensation.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy, including liquidated damages, as would be appropriate if awarded under section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)).

(c) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—Except as provided in paragraph (3), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) IRREGULAR WORK SCHEDULES.—The Board shall issue regulations for covered employees whose work schedules directly depend on the schedule of the House of Representatives or the Senate that shall be comparable to the provisions in the Fair Labor Standards Act of 1938 that apply to employees who have irregular work schedules.

(d) APPLICATION TO THE GOVERNMENT PRINTING OFFICE.—Section 3(e)(2)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)(A)) is amended—

(1) in clause (iii), by striking ''legislative or'',

(2) by striking ''or'' at the end of clause (iv), and

(3) by striking the semicolon at the end of clause (v) and inserting '', or'' and by adding after clause (v) the following:

''(vi) the Government Printing Office;''.

(e) EFFECTIVE DATE.—Subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

SEC. 204. RIGHTS AND PROTECTIONS UNDER THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988.

(a) POLYGRAPH PRACTICES PROHIBITED.—

(1) IN GENERAL.—No employing office, irrespective of whether a covered employee works in that employing office, may require a covered employee to take a lie detector test where such a test would be prohibited if required by an employer under paragraph (1), (2), or (3) of section 3 of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2002 (1), (2), or (3)). In addition, the waiver provisions of section 6(d) of such Act (29 U.S.C. 2005(d)) shall apply to covered employees.

(2) DEFINITIONS.—For purposes of this section, the term ''covered employee'' shall include employees of the General Accounting Office and the Library of Congress and the term ''employing office'' shall include the General Accounting Office and the Library of Congress.

(3) CAPITOL POLICE.—Nothing in this section shall preclude the Capitol Police from using lie detector tests in accordance with regulations under subsection (c).

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under section 6(c)(1) of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2005(c)(1)).

(c) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

(2) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 230.

SEC. 205. RIGHTS AND PROTECTIONS UNDER THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT.

(a) WORKER ADJUSTMENT AND RETRAINING NOTIFICATION RIGHTS.—

(1) IN GENERAL.—No employing office shall be closed or a mass layoff ordered within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102) until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to representatives of covered employees or, if there are no representatives, to covered employees.

(2) DEFINITIONS.—For purposes of this section, the term ''covered employee'' shall include employees of the General Accounting Office and the Library of Congress and the term ''employing office'' shall include the General Accounting Office and the Library of Congress.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under paragraphs (1), (2), and (4) of section 5(a) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2104(a)(1), (2), and (4)).

(c) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

(2) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 230.

SEC. 206. RIGHTS AND PROTECTIONS RELATING TO VETERANS' EMPLOYMENT AND REEMPLOYMENT.

(a) EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.—

(1) IN GENERAL.—It shall be unlawful for an employing office to—

(A) discriminate, within the meaning of subsections (a) and (b) of section 4311 of title 38, United States Code, against an eligible employee;

(B) deny to an eligible employee reemployment rights within the meaning of sections 4312 and 4313 of title 38, United States Code; or

(C) deny to an eligible employee benefits within the meaning of sections 4316, 4317, and 4318 of title 38, United States Code.

(2) DEFINITIONS.—For purposes of this section—

(A) the term ''eligible employee'' means a covered employee performing service in the uniformed services, within the meaning of section 4303(13) of title 38, United States Code, whose service has not been terminated upon occurrence of any of the events enumerated in section 4304 of title 38, United States Code,

(B) the term ''covered employee'' includes employees of the General Accounting Office and the Library of Congress, and

(C) the term ''employing office'' includes the General Accounting Office and the Library of Congress.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under paragraphs (1), (2)(A), and (3) of section 4323(c) of title 38, United States Code.

(c) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

(2) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 230.

SEC. 207. PROHIBITION OF INTIMIDATION OR REPRISAL.

(a) IN GENERAL.—It shall be unlawful for an employing office to intimidate, take reprisal against, or otherwise discriminate against, any covered employee because the covered employee has opposed any practice made unlawful by this Act, or because the covered employee has initiated proceedings, made a charge, or testified, assisted, or participated in any manner in a hearing or other proceeding under this Act.

(b) REMEDY.—The remedy available for a violation of subsection (a) shall be such legal or equitable remedy as may be appropriate to redress a violation of subsection (a).

PART B—PUBLIC SERVICES AND ACCOMMODATIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990

SEC. 210. RIGHTS AND PROTECTIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990 RELATING TO PUBLIC SERVICES AND ACCOMMODATIONS; PROCEDURES FOR REMEDY OF VIOLATIONS.

(a) ENTITIES SUBJECT TO THIS SECTION.—The requirements of this section shall apply to—

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician;

(9) the Office of Compliance; and

(10) the Office of Technology Assessment.

(b) DISCRIMINATION IN PUBLIC SERVICES AND ACCOMMODATIONS.—

(1) RIGHTS AND PROTECTIONS.—The rights and protections against discrimination in the provision of public services and accommodations established by sections 201 through 230, 302, 303, and 309 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131–12150, 12182, 12183, and 12189) shall apply to the entities listed in subsection (a).

(2) DEFINITIONS.—For purposes of the application of title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) under this section, the term ''public entity'' means any entity listed in subsection (a) that provides public services, programs, or activities.

(c) REMEDY.—The remedy for a violation of subsection (b) shall be such remedy as would be appropriate if awarded under section 203 or 308(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12133, 12188(a)), except that, with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 201 of this title.

(d) AVAILABLE PROCEDURES.—

(1) CHARGE FILED WITH GENERAL COUNSEL.—A qualified individual with a disability, as defined in section 201(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131(2)), who alleges a violation of subsection (b) by an entity listed in subsection (a), may file a charge against any entity responsible for correcting the violation with the General Counsel within 180 days of the occurrence of the alleged violation. The General Counsel shall investigate the charge.

(2) MEDIATION.—If, upon investigation under paragraph (1), the General Counsel believes that a violation of subsection (b) may have occurred and that mediation may be helpful in resolving the dispute, the General Counsel may request, but not participate in, mediation under subsections (b) through (d) of section 403 between the charging individual and any entity responsible for correcting the alleged violation.

(3) COMPLAINT, HEARING, BOARD REVIEW.—If mediation under paragraph (2) has not succeeded in resolving the dispute, and if the General Counsel believes that a violation of subsection (b) may have occurred, the General Counsel may file with the Office a complaint against any entity responsible for correcting the violation. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 405 and any person who has filed a charge under paragraph (1) may intervene as of right, with the full rights of a party. The decision of the hearing officer shall be subject to review by the Board pursuant to section 406.

(4) JUDICIAL REVIEW.—A charging individual who has intervened under paragraph (3) or any respondent to the complaint, if aggrieved by a final decision of the Board under paragraph (3), may file a petition for review in the United States Court of Appeals for the Federal Circuit, pursuant to section 407.

(5) COMPLIANCE DATE.—If new appropriated funds are necessary to comply with an order requiring correction of a violation of subsection (b), compliance shall take place as soon as possible, but no later than the fiscal year following the end of the fiscal year in which the order requiring correction becomes final and not subject to further review.

(e) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) ENTITY RESPONSIBLE FOR CORRECTION.—The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for categories of violations of subsection (b), the entity responsible for correction of a particular violation.

(f) PERIODIC INSPECTIONS; REPORT TO CONGRESS; INITIAL STUDY.—

(1) PERIODIC INSPECTIONS.—On a regular basis, and at least once each Congress, the General Counsel shall inspect the facilities of the entities listed in subsection (a) to ensure compliance with subsection (b).

(2) REPORT.—On the basis of each periodic inspection, the General Counsel shall, at least once every Congress, prepare and submit a report—

(A) to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Office of the Architect of the Capitol, or other entity responsible, for correcting the violation of this section uncovered by such inspection, and

(B) containing the results of the periodic inspection, describing any steps necessary to correct any violation of this section, assessing any limitations in accessibility to and usability by individuals with disabilities associated with each violation, and the estimated cost and time needed for abatement.

(3) INITIAL PERIOD FOR STUDY AND CORRECTIVE ACTION.—The period from the date of the enactment of this Act until December 31, 1996, shall be available to the Office of the Architect of the Capitol and other entities subject to this section to identify any violations of subsection (b), to determine the costs of compliance, and to take any necessary corrective action to abate any violations. The Office shall assist the Office of the Architect of the Capitol and other entities listed in subsection (a) by arranging for inspections and other technical assistance at their request. Prior to July 1, 1996, the General Counsel shall conduct a thorough inspection under paragraph (1) and shall submit the report under paragraph (2) for the 104th Congress.

(4) DETAILED PERSONNEL.—The Attorney General, the Secretary of Transportation, and the Architectural and Transportation Barriers Compliance Board may, on request of the Executive Director, detail to the Office such personnel as may be necessary to advise and assist the Office in carrying out its duties under this section.

(g) APPLICATION OF AMERICANS WITH DISABILITIES ACT OF 1990 TO THE PROVISION OF PUBLIC SERVICES AND ACCOMMODATIONS BY THE GENERAL ACCOUNTING OFFICE, THE GOVERNMENT PRINTING OFFICE, AND THE LIBRARY OF CONGRESS.—Section 509 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209)), as amended by section 201(c) of this Act, is amended by adding the following new paragraph:

''(6) ENFORCEMENT OF RIGHTS TO PUBLIC SERVICES AND ACCOMMODATIONS.—The remedies and procedures set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) shall be available to any qualified person with a disability who is a visitor, guest, or patron of an instrumentality of Congress and who alleges a violation of the rights and protections under sections 201 through 230 or section 302 or 303 of this Act that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.''.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsections (b), (c), and (d) shall be effective on January 1, 1997.

(2) GENERAL ACCOUNTING OFFICE, GOVERNMENT PRINTING OFFICE, AND LIBRARY OF CONGRESS.—Subsection (g) shall be effective 1 year after transmission to the Congress of the study under section 230.

PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

SEC. 215. RIGHTS AND PROTECTIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970; PROCEDURES FOR REMEDY OF VIOLATIONS.

(a) OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS.—

(1) IN GENERAL.—Each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654).

(2) DEFINITIONS.—For purposes of the application under this section of the Occupational Safety and Health Act of 1970—

(A) the term ''employer'' as used in such Act means an employing office;

(B) the term ''employee'' as used in such Act means a covered employee;

(C) the term ''employing office'' includes the General Accounting Office, the Library of Congress, and any entity listed in subsection (a) of section 210 that is responsible for correcting a violation of this section, irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such a violation occurs; and

(D) the term ''employee'' includes employees of the General Accounting Office and the Library of Congress.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be an order to correct the violation, including such order as would be appropriate if issued under section 13(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 662(a)).

(c) PROCEDURES.—

(1) REQUESTS FOR INSPECTIONS.—Upon written request of any employing office or covered employee, the General Counsel shall exercise the authorities granted to the Secretary of Labor by subsections (a), (d), (e), and (f) of section 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657 (a), (d), (e), and (f)) to inspect and investigate places of employment under the jurisdiction of employing offices.

(2) CITATIONS, NOTICES, AND NOTIFICATIONS.—For purposes of this section, the General Counsel shall exercise the authorities granted to the Secretary of Labor in sections 9 and 10 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 658 and 659), to issue—

(A) a citation or notice to any employing office responsible for correcting a violation of subsection (a); or

(B) a notification to any employing office that the General Counsel believes has failed to correct a violation for which a citation has been issued within the period permitted for its correction.

(3) HEARINGS AND REVIEW.—If after issuing a citation or notification, the General Counsel determines that a violation has not been corrected, the General Counsel may file a complaint with the Office against the employing office named in the citation or notification. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406.

(4) VARIANCE PROCEDURES.—An employing office may request from the Board an order granting a variance from a standard made applicable by this section. For the purposes of this section, the Board shall exercise the authorities granted to the Secretary of Labor in sections 6(b)(6) and 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)(6) and 655(d)) to act on any employing office's request for a variance. The Board shall refer the matter to a hearing officer pursuant to subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406.

(5) JUDICIAL REVIEW.—The General Counsel or employing office aggrieved by a final decision of the Board under paragraph (3) or (4), may file a petition for review with the United States Court of Appeals for the Federal Circuit pursuant to section 407.

(6) COMPLIANCE DATE.—If new appropriated funds are necessary to correct a violation of subsection (a) for which a citation is issued, or to comply with an order requiring correction of such a violation, correction or compliance shall take place as soon as possible, but not later than the end of the fiscal year following the fiscal year in which the citation is issued or the order requiring correction becomes final and not subject to further review.

(d) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) EMPLOYING OFFICE RESPONSIBLE FOR CORRECTION.—The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the employing office responsible for correction of a particular violation.

(e) PERIODIC INSPECTIONS; REPORT TO CONGRESS.—

(1) PERIODIC INSPECTIONS.—On a regular basis, and at least once each Congress, the General Counsel, exercising the same authorities of the Secretary of Labor as under subsection (c)(1), shall conduct periodic inspections of all facilities of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, the Office of Technology Assessment, the Library of Congress, and the General Accounting Office to report on compliance with subsection (a).

(2) REPORT.—On the basis of each periodic inspection, the General Counsel shall prepare and submit a report—

(A) to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Office of the Architect of the Capitol or other employing office responsible for correcting the violation of this section uncovered by such inspection, and

(B) containing the results of the periodic inspection, identifying the employing office responsible for correcting the violation of this section uncovered by such inspection, describing any steps necessary to correct any violation of this section, and assessing any risks to employee health and safety associated with any violation.

(3) ACTION AFTER REPORT.—If a report identifies any violation of this section, the General Counsel shall issue a citation or notice in accordance with subsection (c)(2)(A).

(4) DETAILED PERSONNEL.—The Secretary of Labor may, on request of the Executive Director, detail to the Office such personnel as may be necessary to advise and assist the Office in carrying out its duties under this section.

(f) INITIAL PERIOD FOR STUDY AND CORRECTIVE ACTION.—The period from the date of the enactment of this Act until December 31, 1996, shall be available to the Office of the Architect of the Capitol and other employing offices to identify any violations of subsection (a), to determine the costs of compliance, and to take any necessary corrective action to abate any violations. The Office shall assist the Office of the Architect of the Capitol and other employing offices by arranging for inspections and other technical assistance at their request. Prior to July 1, 1996, the General Counsel shall conduct a thorough inspection under subsection (e)(1) and shall submit the report under subsection (e)(2) for the 104th Congress.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a), (b), (c), and (e)(3) shall be effective on January 1, 1997.

(2) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 230.

PART D—LABOR-MANAGEMENT RELATIONS

SEC. 220. APPLICATION OF CHAPTER 71 OF TITLE 5, UNITED STATES CODE, RELATING TO FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS; PROCEDURES FOR REMEDY OF VIOLATIONS.

(a) LABOR-MANAGEMENT RIGHTS.—

(1) IN GENERAL.—The rights, protections, and responsibilities established under sections 7102, 7106, 7111 through 7117, 7119 through 7122, and 7131 of title 5, United States Code, shall apply to employing offices and to covered employees and representatives of those employees.

(2) DEFINITION.—For purposes of the application under this section of the sections referred to in paragraph (1), the term ''agency'' shall be deemed to include an employing office.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy, including a remedy under section 7118(a)(7) of title 5, United States Code, as would be appropriate if awarded by the Federal Labor Relations Authority to remedy a violation of any provision made applicable by subsection (a).

(c) AUTHORITIES AND PROCEDURES FOR IMPLEMENTATION AND ENFORCEMENT.—

(1) GENERAL AUTHORITIES OF THE BOARD; PETITIONS.—For purposes of this section and except as otherwise provided in this section, the Board shall exercise the authorities of the Federal Labor Relations Authority under sections 7105, 7111, 7112, 7113, 7115, 7117, 7118, and 7122 of title 5, United States Code, and of the President under section 7103(b) of title 5, United States Code. For purposes of this section, any petition or other submission that, under chapter 71 of title 5, United States Code, would be submitted to the Federal Labor Relations Authority shall, if brought under this section, be submitted to the Board. The Board shall refer any matter under this paragraph to a hearing officer for decision pursuant to subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406. The Board may direct that the General Counsel carry out the Board's investigative authorities under this paragraph.

(2) GENERAL AUTHORITIES OF THE GENERAL COUNSEL; CHARGES OF UNFAIR LABOR PRACTICE.—For purposes of this section and except as otherwise provided in this section, the General Counsel shall exercise the authorities of the General Counsel of the Federal Labor Relations Authority under sections 7104 and 7118 of title 5, United States Code. For purposes of this section, any charge or other submission that, under chapter 71 of title 5, United States Code, would be submitted to the General Counsel of the Federal Labor Relations Authority shall, if brought under this section, be submitted to the General Counsel. If any person charges an employing office or a labor organization with having engaged in or engaging in an unfair labor practice and makes such charge within 180 days of the occurrence of the alleged unfair labor practice, the General Counsel shall investigate the charge and may file a complaint with the Office. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406.

(3) JUDICIAL REVIEW.—Except for matters referred to in paragraphs (1) and (2) of section 7123(a) of title 5, United States Code, the General Counsel or the respondent to the complaint, if aggrieved by a final decision of the Board under paragraphs (1) or (2) of this subsection, may file a petition for judicial review in the United States Court of Appeals for the Federal Circuit pursuant to section 407.

(4) EXERCISE OF IMPASSES PANEL AUTHORITY; REQUESTS.—For purposes of this section and except as otherwise provided in this section, the Board shall exercise the authorities of the Federal Service Impasses Panel under section 7119 of title 5, United States Code. For purposes of this section, any request that, under chapter 71 of title 5, United States Code, would be presented to the Federal Service Impasses Panel shall, if made under this section, be presented to the Board. At the request of the Board, the Executive Director shall appoint a mediator or mediators to perform the functions of the Federal Service Impasses Panel under section 7119 of title 5, United States Code.

(d) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—Except as provided in subsection (e), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the

Federal Labor Relations Authority to implement the statutory provisions referred to in subsection (a) except—

(A) to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; or

(B) as the Board deems necessary to avoid a conflict of interest or appearance of a conflict of interest.

(e) SPECIFIC REGULATIONS REGARDING APPLICATION TO CERTAIN OFFICES OF CONGRESS.—

(1) REGULATIONS REQUIRED.—The Board shall issue regulations pursuant to section 304 on the manner and extent to which the requirements and exemptions of chapter 71 of title 5, United States Code, should apply to covered employees who are employed in the offices listed in paragraph (2). The regulations shall, to the greatest extent practicable, be consistent with the provisions and purposes of chapter 71 of title 5, United States Code and of this Act, and shall be the same as substantive regulations issued by the Federal Labor Relations Authority under such chapter, except—

(A) to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

(B) that the Board shall exclude from coverage under this section any covered employees who are employed in offices listed in paragraph (2) if the Board determines that such exclusion is required because of—

(i) a conflict of interest or appearance of a conflict of interest; or

(ii) Congress' constitutional responsibilities.

(2) OFFICES REFERRED TO.—The offices referred to in paragraph (1) include—

(A) the personal office of any Member of the House of Representatives or of any Senator;

(B) a standing, select, special, permanent, temporary, or other committee of the Senate or House of Representatives, or a joint committee of Congress;

(C) the Office of the Vice President (as President of the Senate), the Office of the President pro tempore of the Senate, the Office of the Majority Leader of the Senate, the Office of the Minority Leader of the Senate, the Office of the Majority Whip of the Senate, the Office of the Minority Whip of the Senate, the Conference of the Majority of the Senate, the Conference of the Minority of the Senate, the Office of the Secretary of the Conference of the Majority of the Senate, the Office of the Secretary of the Conference of the Minority of the Senate, the Office of the Secretary for the Majority of the Senate, the Office of the Secretary for the Minority of the Senate, the Majority Policy Committee of the Senate, the Minority Policy Committee of the Senate, and the following offices within the Office of the Secretary of the Senate: Offices of the Parliamentarian, Bill Clerk, Legislative Clerk, Journal Clerk, Executive Clerk, Enrolling Clerk, Official Reporters of Debate, Daily Digest, Printing Services, Captioning Services, and Senate Chief Counsel for Employment;

(D) the Office of the Speaker of the House of Representatives, the Office of the Majority Leader of the House of Representatives, the Office of the Minority Leader of the House of Representatives, the Offices of the Chief Deputy Majority Whips, the Offices of the Chief Deputy Minority Whips and the following offices within the Office of the Clerk of the House of Representatives: Offices of Legislative Operations, Official Reporters of Debate, Official Reporters to Committees, Printing Services, and Legislative Information;

(E) the Office of the Legislative Counsel of the Senate, the Office of the Senate Legal Counsel, the Office of the Legislative Counsel of the House of Representatives, the Office of the General Counsel of the House of Representatives, the Office of the Parliamentarian of the House of Representatives, and the Office of the Law Revision Counsel;

(F) the offices of any caucus or party organization;

(G) the Congressional Budget Office, the Office of Technology Assessment, and the Office of Compliance; and

(H) such other offices that perform comparable functions which are identified under regulations of the Board.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall be effective on October 1, 1996.

(2) CERTAIN OFFICES.—With respect to the offices listed in subsection (e)(2), to the covered employees of such offices, and to representatives of such employees, subsections (a) and (b) shall be effective on the effective date of regulations under subsection (e).

PART E—GENERAL

SEC. 225. GENERALLY APPLICABLE REMEDIES AND LIMITATIONS.

(a) ATTORNEY'S FEES.—If a covered employee, with respect to any claim under this Act, or a qualified person with a disability, with respect to any claim under section 210, is a prevailing party in any proceeding under section 405, 406, 407, or 408, the hearing officer, Board, or court, as the case may be, may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(k)).

(b) INTEREST.—In any proceeding under section 405, 406, 407, or 408, the same interest to compensate for delay in payment shall be made available as would be appropriate if awarded under section 717(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(d)).

(c) CIVIL PENALTIES AND PUNITIVE DAMAGES.—No civil penalty or punitive damages may be awarded with respect to any claim under this Act.

(d) EXCLUSIVE PROCEDURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), no person may commence an administrative or judicial proceeding to seek a remedy for the rights and protections afforded by this Act except as provided in this Act.

(2) VETERANS.—A covered employee under section 206 may also utilize any provisions of chapter 43 of title 38, United States Code, that are applicable to that employee.

(e) SCOPE OF REMEDY.—Only a covered employee who has undertaken and completed the procedures described in sections 402 and 403 may be granted a remedy under part A of this title.

(f) CONSTRUCTION.—

(1) DEFINITIONS AND EXEMPTIONS.—Except where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions in the laws made applicable by this Act shall apply under this Act.

(2) SIZE LIMITATIONS.—Notwithstanding paragraph (1), provisions in the laws made applicable under this Act (other than the Worker Adjustment and Retraining Notification Act) determining coverage based on size, whether expressed in terms of numbers of employees, amount of business transacted, or other measure, shall not apply in determining coverage under this Act.

(3) EXECUTIVE BRANCH ENFORCEMENT.—This Act shall not be construed to authorize enforcement by the executive branch of this Act.

PART F—STUDY

SEC. 230. STUDY AND RECOMMENDATIONS REGARDING GENERAL ACCOUNTING OFFICE, GOVERNMENT PRINTING OFFICE, AND LIBRARY OF CONGRESS.

(a) IN GENERAL.—The Administrative Conference of the United States shall undertake a study of—

(1) the application of the laws listed in subsection (b) to—

(A) the General Accounting Office;

(B) the Government Printing Office; and

(C) the Library of Congress; and

(2) the regulations and procedures used by the entities referred to in paragraph (1) to apply and enforce such laws to themselves and their employees.

(b) APPLICABLE STATUTES.—The study under this section shall consider the application of the following laws:

(1) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), and related provisions of section 2302 of title 5, United States Code.

(2) The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), and related provisions of section 2302 of title 5, United States Code.

(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and related provisions of section 2302 of title 5, United States Code.

(4) The Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.), and related provisions of sections 6381 through 6387 of title 5, United States Code.

(5) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), and related provisions of sections 5541 through 5550a of title 5, United States Code.

(6) The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), and related provisions of section 7902 of title 5, United States Code.

(7) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(8) Chapter 71 (relating to Federal service labor-management relations) of title 5, United States Code.

(9) The General Accounting Office Personnel Act of 1980 (31 U.S.C. 731 et seq.).

(10) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.).

(11) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.).

(12) Chapter 43 (relating to veterans' employment and reemployment) of title 38, United States Code.

(c) CONTENTS OF STUDY AND RECOMMENDATIONS.—The study under this section shall evaluate whether the rights, protections, and procedures, including administrative and judicial relief, applicable to the entities listed in paragraph (1) of subsection (a) and their employees are comprehensive and effective and shall include recommendations for any improvements in regulations or legislation, including proposed regulatory or legislative language.

(d) DEADLINE AND DELIVERY OF STUDY.—Not later than December 31, 1996—

(1) the Administrative Conference of the United States shall prepare and complete the study and recommendations required under this section and shall submit the study and recommendations to the Board; and

(2) the Board shall transmit such study and recommendations (with the Board's comments) to the head of each entity considered in the study, and to the Congress by delivery to the Speaker of the House of Representatives and President pro tempore of the Senate for referral to the appropriate committees of the House of Representatives and of the Senate.

TITLE III—OFFICE OF COMPLIANCE

SEC. 301. ESTABLISHMENT OF OFFICE OF COMPLIANCE.

(a) ESTABLISHMENT.—There is established, as an independent office within the legislative branch of the Federal Government, the Office of Compliance.

(b) BOARD OF DIRECTORS.—The Office shall have a Board of Directors. The Board shall consist of 5 individuals appointed jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, and the Minority Leaders of the House of Representatives and the Senate. Appointments of the first 5 members of the Board shall be completed not later than 90 days after the date of the enactment of this Act.

(c) CHAIR.—The Chair shall be appointed from members of the Board jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, and the Minority Leaders of the House of Representatives and the Senate.

(d) BOARD OF DIRECTORS QUALIFICATIONS.—

(1) SPECIFIC QUALIFICATIONS.—Selection and appointment of members of the Board shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. Members of the Board shall have training or experience in the application of the rights, protections, and remedies under one or more of the laws made applicable under section 102.

(2) DISQUALIFICATIONS FOR APPOINTMENTS.—

(A) LOBBYING.—No individual who engages in, or is otherwise employed in, lobbying of the Congress and who is required under the Federal Regulation of Lobbying Act to register with the Clerk of the House of Representatives or the Secretary of the Senate shall be eligible for appointment to, or service on, the Board.

(B) INCOMPATIBLE OFFICE.—No member of the Board appointed under subsection (b) may hold or may have held the position of Member of the House of Representatives or Senator, may hold the position of officer or employee of the House of Representatives, Senate, or instrumentality or other entity of the legislative branch, or may have held such a position (other than the position of an officer or employee of the General Accounting Office Personnel Appeals Board, an officer or employee of the Office of Fair Employment Practices of the House of Representatives, or officer or employee of the Office of Senate Fair Employment Practices) within 4 years of the date of appointment.

(3) VACANCIES.—A vacancy on the Board shall be filled in the manner in which the original appointment was made.

(e) TERM OF OFFICE.—

(1) IN GENERAL.—Except as provided in paragraph (2), membership on the Board shall be for 5 years. A member of the Board who is appointed to a term of office of more than 3 years shall only be eligible for appointment for a single term of office.

(2) FIRST APPOINTMENTS.—Of the members first appointed to the Board—

(A) 1 shall have a term of office of 3 years,

(B) 2 shall have a term of office of 4 years, and

(C) 2 shall have a term of office of 5 years, 1 of whom shall be the Chair,

as designated at the time of appointment by the persons specified in subsection (b).

(f) REMOVAL.—

(1) AUTHORITY.—Any member of the Board may be removed from office by a majority decision of the appointing authorities described in subsection (b), but only for—

(A) disability that substantially prevents the member from carrying out the duties of the member,

(B) incompetence,

(C) neglect of duty,

(D) malfeasance, including a felony or conduct involving moral turpitude, or

(E) holding an office or employment or engaging in an activity that disqualifies the individual from service as a member of the Board under subsection (d)(2).

(2) STATEMENT OF REASONS FOR REMOVAL.—In removing a member of the Board, the Speaker of the House of Representatives and the President pro tempore of the Senate shall state in writing to the member of the Board being removed the specific reasons for the removal.

(g) COMPENSATION.—

(1) PER DIEM.—Each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. The rate of pay of a member may be prorated based on the portion of the day during which the member is engaged in the performance of Board duties.

(2) TRAVEL EXPENSES.—Each member of the Board shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(h) DUTIES.—The Office shall—

(1) carry out a program of education for Members of Congress and other employing authorities of the legislative branch of the Federal Government respecting the laws made applicable to them and a program to inform individuals of their rights under laws applicable to the legislative branch of the Federal Government;

(2) in carrying out the program under paragraph (1), distribute the telephone number and address of the Office, procedures for action under title IV, and any other information appropriate for distribution, distribute such information to employing offices in a manner suitable for posting, provide such information to new employees of employing offices, distribute such information to the residences of covered employees, and conduct seminars and other activities designed to educate employing offices and covered employees; and

(3) compile and publish statistics on the use of the Office by covered employees, including the number and type of contacts made with the Office, on the reason for such contacts, on the number of covered employees who initiated proceedings with the Office under this Act and the result of such proceedings, and on the number of covered employees who filed a complaint, the basis for the complaint, and the action taken on the complaint.

(i) CONGRESSIONAL OVERSIGHT.—The Board and the Office shall be subject to oversight (except with respect to the disposition of individual cases) by the Committee on Rules and Administration and the Committee on Governmental Affairs of the Senate and the Committee on House Oversight of the House of Representatives.

(j) OPENING OF OFFICE.—The Office shall be open for business, including receipt of requests for counseling under section 402, not later than 1 year after the date of the enactment of this Act.

(k) FINANCIAL DISCLOSURE REPORTS.—Members of the Board and officers and employees of the Office shall file the financial disclosure reports required under title I of the Ethics in Government Act of 1978 with the Clerk of the House of Representatives.

SEC. 302. OFFICERS, STAFF, AND OTHER PERSONNEL.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT AND REMOVAL.—

(A) IN GENERAL.—The Chair, subject to the approval of the Board, shall appoint and may remove an Executive Director. Selection and appointment of the Executive Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. The first Executive Director shall be appointed no later than 90 days after the initial appointment of the Board of Directors.

(B) QUALIFICATIONS.—The Executive Director shall be an individual with training or expertise in the application of laws referred to in section 102(a).

(C) DISQUALIFICATIONS.—The disqualifications in section 301(d)(2) shall apply to the appointment of the Executive Director.

(2) COMPENSATION.—The Chair may fix the compensation of the Executive Director. The rate of pay for the Executive Director may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) TERM.—The term of office of the Executive Director shall be a single term of 5 years, except that the first Executive Director shall have a single term of 7 years.

(4) DUTIES.—The Executive Director shall serve as the chief operating officer of the Office. Except as otherwise specified in this Act, the Executive Director shall carry out all of the responsibilities of the Office under this Act.

(b) DEPUTY EXECUTIVE DIRECTORS.—

(1) IN GENERAL.—The Chair, subject to the approval of the Board, shall appoint and may remove a Deputy Executive Director for the Senate and a Deputy Executive Director for the House of Representatives. Selection and appointment of a Deputy Executive Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the office. The disqualifications in section 301(d)(2) shall apply to the appointment of a Deputy Executive Director.

(2) TERM.—The term of office of a Deputy Executive Director shall be a single term of 5 years, except that the first Deputy Executive Directors shall have a single term of 6 years.

(3) COMPENSATION.—The Chair may fix the compensation of the Deputy Executive Directors. The rate of pay for a Deputy Executive Director may not exceed 96 percent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(4) DUTIES.—The Deputy Executive Director for the Senate shall recommend to the Board regulations under section 304(a)(2)(B)(i), maintain the regulations and all records pertaining to the regulations, and shall assume such other responsibilities as may be delegated by the Executive Director. The Deputy Executive Director for the House of Representatives shall recommend to the Board the regulations under section 304(a)(2)(B)(ii), maintain the regulations and all records pertaining to the regulations, and shall assume such other responsibilities as may be delegated by the Executive Director.

(c) GENERAL COUNSEL.—

(1) IN GENERAL.—The Chair, subject to the approval of the Board, shall appoint a General Counsel. Selection and appointment of the General Counsel shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. The disqualifications in section 301(d)(2) shall apply to the appointment of a General Counsel.

(2) COMPENSATION.—The Chair may fix the compensation of the General Counsel. The rate of pay for the General Counsel may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) DUTIES.—The General Counsel shall—

(A) exercise the authorities and perform the duties of the General Counsel as specified in this Act; and

(B) otherwise assist the Board and the Executive Director in carrying out their duties and powers, including representing the Office in any judicial proceeding under this Act.

(4) ATTORNEYS IN THE OFFICE OF THE GENERAL COUNSEL.—The General Counsel shall appoint, and fix the compensation of, and may remove, such additional attorneys as may be necessary to enable the General Counsel to perform the General Counsel's duties.

(5) TERM.—The term of office of the General Counsel shall be a single term of 5 years.

(6) REMOVAL.—

(A) AUTHORITY.—The General Counsel may be removed from office by the Chair but only for—

(i) disability that substantially prevents the General Counsel from carrying out the duties of the General Counsel,

(ii) incompetence,

(iii) neglect of duty,

(iv) malfeasance, including a felony or conduct involving moral turpitude, or

(v) holding an office or employment or engaging in an activity that disqualifies the individual from service as the General Counsel under paragraph (1).

(B) STATEMENT OF REASONS FOR REMOVAL.—In removing the General Counsel, the Speaker of the House of Representatives and the President pro tempore of the Senate shall state in writing to the General Counsel the specific reasons for the removal.

(d) OTHER STAFF.—The Executive Director shall appoint, and fix the compensation of, and may remove, such other additional staff, including hearing officers, but not including attorneys employed in the office of the General Counsel, as may be necessary to enable the Office to perform its duties.

(e) DETAILED PERSONNEL.—The Executive Director may, with the prior consent of the department or agency of the Federal Government concerned, use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency, including the services of members or personnel of the General Accounting Office Personnel Appeals Board.

(f) CONSULTANTS.—In carrying out the functions of the Office, the Executive Director may procure the temporary (not to exceed 1 year) or intermittent services of consultants.

SEC. 303. PROCEDURAL RULES.

(a) IN GENERAL.—The Executive Director shall, subject to the approval of the Board, adopt rules governing the procedures of the Office, including the procedures of hearing officers, which shall be submitted for publication in the Congressional Record. The rules may be amended in the same manner.

(b) PROCEDURE.—The Executive Director shall adopt rules referred to in subsection (a) in accordance with the principles and procedures set forth in section 553 of title 5, United States Code. The Executive Director shall publish a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, but, instead of publication of a general notice of proposed rulemaking in the Federal Register, the Executive Director shall transmit such notice to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Before adopting rules, the Executive Director shall provide a comment period of at least 30 days after publication of a general notice of proposed rulemaking. Upon adopting rules, the Executive Director shall transmit notice of such action together with a copy of such rules to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Rules shall be considered issued by the Executive Director as of the date on which they are published in the Congressional Record.

SEC. 304. SUBSTANTIVE REGULATIONS.

(a) REGULATIONS.—

(1) IN GENERAL.—The procedures applicable to the regulations of the Board issued for the implementation of this Act, which shall include regulations the Board is required to issue under title II (including regulations on the appropriate application of exemptions under the laws made applicable in title II) are as prescribed in this section.

(2) RULEMAKING PROCEDURE.—Such regulations of the Board—

(A) shall be adopted, approved, and issued in accordance with subsection (b); and

(B) shall consist of 3 separate bodies of regulations, which shall apply, respectively, to—

(i) the Senate and employees of the Senate;

(ii) the House of Representatives and employees of the House of Representatives; and

(iii) all other covered employees and employing offices.

(b) ADOPTION BY THE BOARD.—The Board shall adopt the regulations referred to in subsection (a)(1) in accordance with the principles and procedures set forth in section 553 of title 5, United States Code, and as provided in the following provisions of this subsection:

(1) PROPOSAL.—The Board shall publish a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, but, instead of publication of a general notice of proposed rulemaking in the Federal Register, the Board shall transmit such notice to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Such notice shall set forth the recommendations of the Deputy Director for the Senate in regard to regulations under subsection (a)(2)(B)(i), the recommendations of the Deputy Director for the House of Representatives in regard to regulations under subsection (a)(2)(B)(ii), and the recommendations of the Executive Director for regulations under subsection (a)(2)(B)(iii).

(2) COMMENT.—Before adopting regulations, the Board shall provide a comment period of at least 30 days after publication of a general notice of proposed rulemaking.

(3) ADOPTION.—After considering comments, the Board shall adopt regulations and shall transmit notice of such action together with a copy of such regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.

(4) RECOMMENDATION AS TO METHOD OF APPROVAL.—The Board shall include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution.

(c) APPROVAL OF REGULATIONS.—

(1) IN GENERAL.—Regulations referred to in paragraph (2)(B)(i) of subsection (a) may be approved by the Senate by resolution or by the Congress by concurrent resolution or by joint resolution. Regulations referred to in paragraph (2)(B)(ii) of subsection (a) may be approved by the House of Representatives by resolution or by the Congress by concurrent resolution or by joint resolution. Regulations referred to in paragraph (2)(B)(iii) may be approved by Congress by concurrent resolution or by joint resolution.

(2) REFERRAL.—Upon receipt of a notice of adoption of regulations under subsection (b)(3), the presiding officers of the House of Representatives and the Senate shall refer such notice, together with a copy of such regulations, to the appropriate committee or committees of the House of Representatives and of the Senate. The purpose of the referral shall be to consider whether such regulations should be approved, and, if so, whether such approval should be by resolution of the House of Representatives or of the Senate, by concurrent resolution or by joint resolution.

(3) JOINT REFERRAL AND DISCHARGE IN THE SENATE.—The presiding officer of the Senate may refer the notice of issuance of regulations, or any resolution of approval of regulations, to one committee or jointly to more than one committee. If a committee of the Senate acts to report a jointly referred measure, any other committee of the Senate must act within 30 calendar days of continuous session, or be automatically discharged.

(4) ONE-HOUSE RESOLUTION OR CONCURRENT RESOLUTION.—In the case of a resolution of the House of Representatives or the Senate or a concurrent resolution referred to in paragraph (1), the matter after the resolving clause shall be the following: ''The following regulations issued by the Office of Compliance on ___ are hereby approved:'' (the blank space being appropriately filled in, and the text of the regulations being set forth).

(5) JOINT RESOLUTION.—In the case of a joint resolution referred to in paragraph (1), the matter after the resolving clause shall be the following: ''The following regulations issued by the Office of Compliance on ___ are hereby approved and shall have the force and effect of law:'' (the blank space being appropriately filled in, and the text of the regulations being set forth).

(d) ISSUANCE AND EFFECTIVE DATE.—

(1) PUBLICATION.—After approval of regulations under subsection (c), the Board shall submit the regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.

(2) DATE OF ISSUANCE.—The date of issuance of regulations shall be the date on which they are published in the Congressional Record under paragraph (1).

(3) EFFECTIVE DATE.—Regulations shall become effective not less than 60 days after the regulations are issued, except that the Board may provide for an earlier effective date for good cause found (within the meaning of section 553(d)(3) of title 5, United States Code) and published with the regulation.

(e) AMENDMENT OF REGULATIONS.—Regulations may be amended in the same manner as is described in this section for the adoption, approval, and issuance of regulations, except that the Board may, in its discretion, dispense with publication of a general notice of proposed rulemaking of minor, technical, or urgent amendments that satisfy the criteria for dispensing with publication of such notice pursuant to section 553(b)(B) of title 5, United States Code.

(f) RIGHT TO PETITION FOR RULEMAKING.—Any interested party may petition to the Board for the issuance, amendment, or repeal of a regulation.

(g) CONSULTATION.—The Executive Director, the Deputy Directors, and the Board—

(1) shall consult, with regard to the development of regulations, with—

(A) the Chair of the Administrative Conference of the United States;

(B) the Secretary of Labor;

(C) the Federal Labor Relations Authority; and

(D) the Director of the Office of Personnel Management; and

(2) may consult with any other persons with whom consultation, in the opinion of the Board, the Executive Director, or Deputy Directors, may be helpful.

SEC. 305. EXPENSES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Beginning in fiscal year 1995, and for each fiscal year thereafter, there are authorized to be appropriated for the expenses of the Office such sums as may be necessary to carry out the functions of the Office. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding 12 months following the date of the enactment of this Act—

(1) one-half of the expenses of the Office shall be paid from funds appropriated for allowances and expenses of the House of Representatives, and

(2) one-half of the expenses of the Office shall be paid from funds appropriated for allowances and expenses of the Senate,

upon vouchers approved by the Executive Director, except that a voucher shall not be required for the disbursement of salaries of employees who are paid at an annual rate. The Clerk of the House of Representatives and the Secretary of the Senate are authorized to make arrangements for the division of expenses under this subsection, including arrangements for one House of Congress to reimburse the other House of Congress.

(b) FINANCIAL AND ADMINISTRATIVE SERVICES.—The Executive Director may place orders and enter into agreements for goods and services with the head of any agency, or major organizational unit within an agency, in the legislative or executive branch of the United States in the same manner and to the same extent as agencies are authorized under sections 1535 and 1536 of title 31, United States Code, to place orders and enter into agreements.

(c) WITNESS FEES AND ALLOWANCES.—Except for covered employees, witnesses before a hearing officer or the Board in any proceeding under this Act other than rulemaking shall be paid the same fee and mileage allowances as are paid subpoenaed witnesses in the courts of the United States. Covered employees who are summoned, or are assigned by their employer, to testify in their official capacity or to produce official records in any proceeding under this Act shall be entitled to travel expenses under subchapter I and section 5751 of chapter 57 of title 5, United States Code.

TITLE IV—ADMINISTRATIVE AND JUDICIAL DISPUTE-RESOLUTION PROCEDURES

SEC. 401. PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.

Except as otherwise provided, the procedure for consideration of alleged violations of part A of title II consists of—

(1) counseling as provided in section 402;

(2) mediation as provided in section 403; and

(3) election, as provided in section 404, of either—

(A) a formal complaint and hearing as provided in section 405, subject to Board review as provided in section 406, and judicial review in the United States Court of Appeals for the Federal Circuit as provided in section 407, or

(B) a civil action in a district court of the United States as provided in section 408.

In the case of an employee of the Office of the Architect of the Capitol or of the Capitol Police, the Executive Director, after receiving a request for counseling under section 402, may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police for resolution of the employee's grievance for a specific period of time, which shall not count against the time available for counseling or mediation.

SEC. 402. COUNSELING.

(a) IN GENERAL.—To commence a proceeding, a covered employee alleging a violation of a law made applicable under part A of title II shall request counseling by the Office. The Office shall provide the employee with all relevant information with respect to the rights of the employee. A request for counseling shall be made not later than 180 days after the date of the alleged violation.

(b) PERIOD OF COUNSELING.—The period for counseling shall be 30 days unless the employee and the Office agree to reduce the period. The period shall begin on the date the request for counseling is received.

(c) NOTIFICATION OF END OF COUNSELING PERIOD.—The Office shall notify the employee in writing when the counseling period has ended.

SEC. 403. MEDIATION.

(a) INITIATION.—Not later than 15 days after receipt by the employee of notice of the end of the counseling period under section 402, but prior to and as a condition of making an election under section 404, the covered employee who alleged a violation of a law shall file a request for mediation with the Office.

(b) PROCESS.—Mediation under this section—

(1) may include the Office, the covered employee, the employing office, and one or more individuals appointed by the Executive Director after considering recommendations by organizations composed primarily of individuals experienced in adjudicating or arbitrating personnel matters, and

(2) shall involve meetings with the parties separately or jointly for the purpose of resolving the dispute between the covered employee and the employing office.

(c) MEDIATION PERIOD.—The mediation period shall be 30 days beginning on the date the request for mediation is received. The mediation period may be extended for additional periods at the joint request of the covered employee and the employing office. The Office shall notify in writing the covered employee and the employing office when the mediation period has ended.

(d) INDEPENDENCE OF MEDIATION PROCESS.—No individual, who is appointed by the Executive Director to mediate, may conduct or aid in a hearing conducted under section 405 with respect to the same matter or shall be subject to subpoena or any other compulsory process with respect to the same matter.

SEC. 404. ELECTION OF PROCEEDING.

Not later than 90 days after a covered employee receives notice of the end of the period of mediation, but no sooner than 30 days after receipt of such notification, such covered employee may either—

(1) file a complaint with the Office in accordance with section 405, or

(2) file a civil action in accordance with section 408 in the United States district court for the district in which the employee is employed or for the District of Columbia.

SEC. 405. COMPLAINT AND HEARING.

(a) IN GENERAL.—A covered employee may, upon the completion of mediation under section 403, file a complaint with the Office. The respondent to the complaint shall be the employing office—

(1) involved in the violation, or

(2) in which the violation is alleged to have occurred,

and about which mediation was conducted.

(b) DISMISSAL.—A hearing officer may dismiss any claim that the hearing officer finds to be frivolous or that fails to state a claim upon which relief may be granted.

(c) HEARING OFFICER.—

(1) APPOINTMENT.—Upon the filing of a complaint, the Executive Director shall appoint an independent hearing officer to consider the complaint and render a decision. No Member of the House of Representatives, Senator, officer of either the House of Representatives or the Senate, head of an employing office, member of the Board, or covered employee may be appointed to be a hearing officer. The Executive Director shall select hearing officers on a rotational or random basis from the lists developed under paragraph (2). Nothing in this section shall prevent the appointment of hearing officers as full-time employees of the Office or the selection of hearing officers on the basis of specialized expertise needed for particular matters.

(2) LISTS.—The Executive Director shall develop master lists, composed of—

(A) members of the bar of a State or the District of Columbia and retired judges of the United States courts who are experienced in adjudicating or arbitrating the kinds of personnel and other matters for which hearings may be held under this Act, and

(B) individuals expert in technical matters relating to accessibility and usability by persons with disabilities or technical matters relating to occupational safety and health.

In developing lists, the Executive Director shall consider candidates recommended by the Federal Mediation and Conciliation Service or the Administrative Conference of the United States.

(d) HEARING.—Unless a complaint is dismissed before a hearing, a hearing shall be—

(1) conducted in closed session on the record by the hearing officer;

(2) commenced no later than 60 days after filing of the complaint under subsection (a), except that the Office may, for good cause, extend up to an additional 30 days the time for commencing a hearing; and

(3) conducted, except as specifically provided in this Act and to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 554 through 557 of title 5, United States Code.

(e) DISCOVERY.—Reasonable prehearing discovery may be permitted at the discretion of the hearing officer.

(f) SUBPOENAS.—

(1) IN GENERAL.—At the request of a party, a hearing officer may issue subpoenas for the attendance of witnesses and for the production of correspondence, books, papers, documents, and other records. The attendance of witnesses and the production of records may be required from any place within the United States. Subpoenas shall be served in the manner provided under rule 45(b) of the Federal Rules of Civil Procedure.

(2) OBJECTIONS.—If a person refuses, on the basis of relevance, privilege, or other objection, to testify in response to a question or to produce records in connection with a proceeding before a hearing officer, the hearing

officer shall rule on the objection. At the request of the witness or any party, the hearing officer shall (or on the hearing officer's own initiative, the hearing officer may) refer the ruling to the Board for review.

(3) ENFORCEMENT.—

(A) IN GENERAL.—If a person fails to comply with a subpoena, the Board may authorize the General Counsel to apply, in the name of the Office, to an appropriate United States district court for an order requiring that person to appear before the hearing officer to give testimony or produce records. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey a lawful order of the district court issued pursuant to this section may be held by such court to be a civil contempt thereof.

(B) SERVICE OF PROCESS.—Process in an action or contempt proceeding pursuant to subparagraph (A) may be served in any judicial district in which the person refusing or failing to comply, or threatening to refuse or not to comply, resides, transacts business, or may be found, and subpoenas for witnesses who are required to attend such proceedings may run into any other district.

(g) DECISION.—The hearing officer shall issue a written decision as expeditiously as possible, but in no case more than 90 days after the conclusion of the hearing. The written decision shall be transmitted by the Office to the parties. The decision shall state the issues raised in the complaint, describe the evidence in the record, contain findings of fact and conclusions of law, contain a determination of whether a violation has occurred, and order such remedies as are appropriate pursuant to title II. The decision shall be entered in the records of the Office. If a decision is not appealed under section 406 to the Board, the decision shall be considered the final decision of the Office.

(h) PRECEDENTS.—A hearing officer who conducts a hearing under this section shall be guided by judicial decisions under the laws made applicable by section 102 and by Board decisions under this Act.

SEC. 406. APPEAL TO THE BOARD.

(a) IN GENERAL.—Any party aggrieved by the decision of a hearing officer under section 405(g) may file a petition for review by the Board not later than 30 days after entry of the decision in the records of the Office.

(b) PARTIES' OPPORTUNITY TO SUBMIT ARGUMENT.—The parties to the hearing upon which the decision of the hearing officer was made shall have a reasonable opportunity to be heard, through written submission and, in the discretion of the Board, through oral argument.

(c) STANDARD OF REVIEW.—The Board shall set aside a decision of a hearing officer if the Board determines that the decision was—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(d) RECORD.—In making determinations under subsection (c), the Board shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(e) DECISION.—The Board shall issue a written decision setting forth the reasons for its decision. The decision may affirm, reverse, or remand to the hearing officer for further proceedings. A decision that does not require further proceedings before a hearing officer shall be entered in the records of the Office as a final decision.

SEC. 407. JUDICIAL REVIEW OF BOARD DECISIONS AND ENFORCEMENT.

(a) JURISDICTION.—

(1) JUDICIAL REVIEW.—The United States Court of Appeals for the Federal Circuit shall have jurisdiction over any proceeding commenced by a petition of—

(A) a party aggrieved by a final decision of the Board under section 406(e) in cases arising under part A of title II,

(B) a charging individual or a respondent before the Board who files a petition under section 210(d)(4),

(C) the General Counsel or a respondent before the Board who files a petition under section 215(c)(5), or

(D) the General Counsel or a respondent before the Board who files a petition under section 220(c)(3).

The court of appeals shall have exclusive jurisdiction to set aside, suspend (in whole or in part), to determine the validity of, or otherwise review the decision of the Board.

(2) ENFORCEMENT.—The United States Court of Appeals for the Federal Circuit shall have jurisdiction over any petition of the General Counsel, filed in the name of the Office and at the direction of the Board, to enforce a final decision under section 405(g) or 406(e) with respect to a violation of part A, B, C, or D of title II.

(b) PROCEDURES.—

(1) RESPONDENTS.—(A) In any proceeding commenced by a petition filed under subsection (a)(1) (A) or (B), or filed by a party other than the General Counsel under subsection (a)(1) (C) or (D), the Office shall be named respondent and any party before the Board may be named respondent by filing a notice of election with the court within 30 days after service of the petition.

(B) In any proceeding commenced by a petition filed by the General Counsel under subsection (a)(1) (C) or (D), the prevailing party in the final decision entered under section 406(e) shall be named respondent, and any other party before the Board may be named respondent by filing a notice of election with the court within 30 days after service of the petition.

(C) In any proceeding commenced by a petition filed under subsection (a)(2), the party under section 405 or 406 that the General Counsel determines has failed to comply with a final decision under section 405(g) or 406(e) shall be named respondent.

(2) INTERVENTION.—Any party that participated in the proceedings before the Board under section 406 and that was not made respondent under paragraph (1) may intervene as of right.

(c) LAW APPLICABLE.—Chapter 158 of title 28, United States Code, shall apply to judicial review under paragraph (1) of subsection (a), except that—

(1) with respect to section 2344 of title 28, United States Code, service of a petition in any proceeding in which the Office is a respondent shall be on the General Counsel rather than on the Attorney General;

(2) the provisions of section 2348 of title 28, United States Code, on the authority of the Attorney General, shall not apply;

(3) the petition for review shall be filed not later than 90 days after the entry in the Office of a final decision under section 406(e); and

(4) the Office shall be an ''agency'' as that term is used in chapter 158 of title 28, United States Code.

(d) STANDARD OF REVIEW.—To the extent necessary for decision in a proceeding commenced under subsection (a)(1) and when presented, the court shall decide all relevant questions of law and interpret constitutional and statutory provisions. The court shall set aside a final decision of the Board if it is determined that the decision was—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(e) RECORD.—In making determinations under subsection (d), the court shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

SEC. 408. CIVIL ACTION.

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction over any civil action commenced under section 404 and this section by a covered employee who has completed counseling under section 402 and mediation under section 403. A civil action may be commenced by a covered employee only to seek redress for a violation for which the employee has completed counseling and mediation.

(b) PARTIES.—The defendant shall be the employing office alleged to have committed the violation, or in which the violation is alleged to have occurred.

(c) JURY TRIAL.—Any party may demand a jury trial where a jury trial would be available in an action against a private defendant under the relevant law made applicable by this Act. In any case in which a violation of section 201 is alleged, the court shall not inform the jury of the maximum amount of compensatory damages available under section 201(b)(1) or 201(b)(3).

SEC. 409. JUDICIAL REVIEW OF REGULATIONS.

In any proceeding brought under section 407 or 408 in which the application of a regulation issued under this Act is at issue, the court may review the validity of the regulation in accordance with the provisions of subparagraphs (A) through (D) of section 706(2) of title 5, United States Code, except that with respect to regulations approved by a joint resolution under section 304(c), only the provisions of section 706(2)(B) of title 5, United States Code, shall apply. If the court determines that the regulation is invalid, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provisions with respect to which the invalid regulation was issued. Except as provided in this section, the validity of regulations issued under this Act is not subject to judicial review.

SEC. 410. OTHER JUDICIAL REVIEW PROHIBITED.

Except as expressly authorized by sections 407, 408, and 409, the compliance or noncompliance with the provisions of this Act and any action taken pursuant to this Act shall not be subject to judicial review.

SEC. 411. EFFECT OF FAILURE TO ISSUE REGULATIONS.

In any proceeding under section 405, 406, 407, or 408, except a proceeding to enforce section 220 with respect to offices listed under section 220(e)(2), if the Board has not issued a regulation on a matter for which this Act requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

SEC. 412. EXPEDITED REVIEW OF CERTAIN APPEALS.

(a) IN GENERAL.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order of a court upon the constitutionality of any provision of this Act.

(b) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal

referred to in subsection (a), advance the appeal on the docket, and expedite the appeal to the greatest extent possible.

SEC. 413. PRIVILEGES AND IMMUNITIES.

The authorization to bring judicial proceedings under sections 405(f)(3), 407, and 408 shall not constitute a waiver of sovereign immunity for any other purpose, or of the privileges of any Senator or Member of the House of Representatives under article I, section 6, clause 1, of the Constitution, or a waiver of any power of either the Senate or the House of Representatives under the Constitution, including under article I, section 5, clause 3, or under the rules of either House relating to records and information within its jurisdiction.

SEC. 414. SETTLEMENT OF COMPLAINTS.

Any settlement entered into by the parties to a process described in section 210, 215, 220, or 401 shall be in writing and not become effective unless it is approved by the Executive Director. Nothing in this Act shall affect the power of the Senate and the House of Representatives, respectively, to establish rules governing the process by which a settlement may be entered into by such House or by any employing office of such House.

SEC. 415. PAYMENTS.

(a) AWARDS AND SETTLEMENTS.—Except as provided in subsection (c), only funds which are appropriated to an account of the Office in the Treasury of the United States for the payment of awards and settlements may be used for the payment of awards and settlements under this Act. There are authorized to be appropriated for such account such sums as may be necessary to pay such awards and settlements. Funds in the account are not available for awards and settlements involving the General Accounting Office, the Government Printing Office, or the Library of Congress.

(b) COMPLIANCE.—Except as provided in subsection (c), there are authorized to be appropriated such sums as may be necessary for administrative, personnel, and similar expenses of employing offices which are needed to comply with this Act.

(c) OSHA, ACCOMMODATION, AND ACCESS REQUIREMENTS.—Funds to correct violations of section 201(a)(3), 210, or 215 of this Act may be paid only from funds appropriated to the employing office or entity responsible for correcting such violations. There are authorized to be appropriated such sums as may be necessary for such funds.

SEC. 416. CONFIDENTIALITY.

(a) COUNSELING.—All counseling shall be strictly confidential, except that the Office and a covered employee may agree to notify the employing office of the allegations.

(b) MEDIATION.—All mediation shall be strictly confidential.

(c) HEARINGS AND DELIBERATIONS.—Except as provided in subsections (d), (e), and (f), all proceedings and deliberations of hearing officers and the Board, including any related records, shall be confidential. This subsection shall not apply to proceedings under section 215, but shall apply to the deliberations of hearing officers and the Board under that section.

(d) RELEASE OF RECORDS FOR JUDICIAL ACTION.—The records of hearing officers and the Board may be made public if required for the purpose of judicial review under section 407.

(e) ACCESS BY COMMITTEES OF CONGRESS.—At the discretion of the Executive Director, the Executive Director may provide to the Committee on Standards of Official Conduct of the House of Representatives and the Select Committee on Ethics of the Senate access to the records of the hearings and decisions of the hearing officers and the Board, including all written and oral testimony in the possession of the Office. The Executive Director shall not provide such access until the Executive Director has consulted with the individual filing the complaint at issue, and until a final decision has been entered under section 405(g) or 406(e).

(f) FINAL DECISIONS.—A final decision entered under section 405(g) or 406(e) shall be made public if it is in favor of the complaining covered employee, or in favor of the charging party under section 210, or if the decision reverses a decision of a hearing officer which had been in favor of the covered employee or charging party. The Board may make public any other decision at its discretion.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. EXERCISE OF RULEMAKING POWERS.

The provisions of sections 102(b)(3) and 304(c) are enacted—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of such House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of each House.

SEC. 502. POLITICAL AFFILIATION AND PLACE OF RESIDENCE.

(a) IN GENERAL.—It shall not be a violation of any provision of section 201 to consider the—

(1) party affiliation;

(2) domicile; or

(3) political compatibility with the employing office;

of an employee referred to in subsection (b) with respect to employment decisions.

(b) DEFINITION.—For purposes of subsection (a), the term ''employee'' means—

(1) an employee on the staff of the leadership of the House of Representatives or the leadership of the Senate;

(2) an employee on the staff of a committee or subcommittee of—

(A) the House of Representatives;

(B) the Senate; or

(C) a joint committee of the Congress;

(3) an employee on the staff of a Member of the House of Representatives or on the staff of a Senator;

(4) an officer of the House of Representatives or the Senate or a congressional employee who is elected by the House of Representatives or Senate or is appointed by a Member of the House of Representatives or by a Senator (in addition an employee described in paragraph (1), (2), or (3)); or

(5) an applicant for a position that is to be occupied by an individual described in any of paragraphs (1) through (4).

SEC. 503. NONDISCRIMINATION RULES OF THE HOUSE AND SENATE.

The Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives retain full power, in accordance with the authority provided to them by the Senate and the House, with respect to the discipline of Members, officers, and employees for violating rules of the Senate and the House on nondiscrimination in employment.

SEC. 504. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CIVIL RIGHTS REMEDIES.—

(1) Sections 301 and 302 of the Government Employee Rights Act of 1991 (2 U.S.C. 1201 and 1202) are amended to read as follows:

''SEC. 301. GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.

''(a) SHORT TITLE.—This title may be cited as the 'Government Employee Rights Act of 1991'.

''(b) PURPOSE.—The purpose of this title is to provide procedures to protect the rights of certain government employees, with respect to their public employment, to be free of discrimination on the basis of race, color, religion, sex, national origin, age, or disability.

''(c) DEFINITION.—For purposes of this title, the term 'violation' means a practice that violates section 302(a) of this title.

''SEC. 302. DISCRIMINATORY PRACTICES PROHIBITED.

''(a) PRACTICES.—All personnel actions affecting the Presidential appointees described in section 303 or the State employees described in section 304 shall be made free from any discrimination based on—

''(1) race, color, religion, sex, or national origin, within the meaning of section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16);

''(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

''(3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112–14).

''(b) REMEDIES.—The remedies referred to in sections 303(a)(1) and 304(a)—

''(1) may include, in the case of a determination that a violation of subsection (a)(1) or (a)(3) has occurred, such remedies as would be appropriate if awarded under sections 706(g), 706(k), and 717(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g), 2000e–5(k), 2000e–16(d)), and such compensatory damages as would be appropriate if awarded under section 1977 or sections 1977A(a) and 1977A(b)(2) of the Revised Statutes (42 U.S.C. 1981 and 1981a(a) and (b)(2));

''(2) may include, in the case of a determination that a violation of subsection (a)(2) has occurred, such remedies as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)); and

''(3) may not include punitive damages.''.

(2) Sections 303 through 319, and sections 322, 324, and 325 of the Government Employee Rights Act of 1991 (2 U.S.C. 1203–1218, 1221, 1223, and 1224) are repealed, except as provided in section 506 of this Act.

(3) Sections 320 and 321 of the Government Employee Rights Act of 1991 (2 U.S.C. 1219 and 1220) are redesignated as sections 303 and 304, respectively.

(4) Sections 303 and 304 of the Government Employee Rights Act of 1991, as so redesignated, are each amended by striking ''and 307(h) of this title''.

(5) Section 1205 of the Supplemental Appropriations Act of 1993 (2 U.S.C. 1207a) is repealed, except as provided in section 506 of this Act.

(b) FAMILY AND MEDICAL LEAVE ACT OF 1993.—Title V of the Family and Medical Leave Act of 1993 (2 U.S.C. 60m et seq.) is repealed, except as provided in section 506 of this Act.

(c) ARCHITECT OF THE CAPITOL.—

(1) REPEAL.—Section 312(e) of the Architect of the Capitol Human Resources Act (Public Law 103–283; 108 Stat. 1444) is repealed, except as provided in section 506 of this Act.

(2) APPLICATION OF GENERAL ACCOUNTING OFFICE PERSONNEL ACT OF 1980.—The provisions of sections 751, 753, and 755 of title 31, United States Code, amended by section 312(e) of the Architect of the Capitol Human Resources Act, shall be applied and administered as if such section 312(e) (and the

amendments made by such section) had not been enacted.

SEC. 505. JUDICIAL BRANCH COVERAGE STUDY.

The Judicial Conference of the United States shall prepare a report for submission by the Chief Justice of the United States to the Congress on the application to the judicial branch of the Federal Government of—

(1) the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.);

(2) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);

(3) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(4) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.);

(5) the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.);

(6) the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.);

(7) chapter 71 (relating to Federal service labor-management relations) of title 5, United States Code;

(8) the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.);

(9) the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.);

(10) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.); and

(11) chapter 43 (relating to veterans' employment and reemployment) of title 38, United States Code.

The report shall be submitted to Congress not later than December 31, 1996, and shall include any recommendations the Judicial Conference may have for legislation to provide to employees of the judicial branch the rights, protections, and procedures under the listed laws, including administrative and judicial relief, that are comparable to those available to employees of the legislative branch under titles I through IV of this Act.

SEC. 506. SAVINGS PROVISIONS.

(a) TRANSITION PROVISIONS FOR EMPLOYEES OF THE HOUSE OF REPRESENTATIVES AND OF THE SENATE.—

(1) CLAIMS ARISING BEFORE EFFECTIVE DATE.—If, as of the date on which section 201 takes effect, an employee of the Senate or the House of Representatives has or could have requested counseling under section 305 of the Government Employees Rights Act of 1991 (2 U.S.C. 1205) or Rule LI of the House of Representatives, including counseling for alleged violations of family and medical leave rights under title V of the Family and Medical Leave Act of 1993, the employee may complete, or initiate and complete, all procedures under the Government Employees Rights Act of 1991 and Rule LI, and the provisions of that Act and Rule shall remain in effect with respect to, and provide the exclusive procedures for, those claims until the completion of all such procedures.

(2) CLAIMS ARISING BETWEEN EFFECTIVE DATE AND OPENING OF OFFICE.—If a claim by an employee of the Senate or House of Representatives arises under section 201 or 202 after the effective date of such sections, but before the opening of the Office for receipt of requests for counseling or mediation under sections 402 and 403, the provisions of the Government Employees Rights Act of 1991 (2 U.S.C. 1201 et seq.) and Rule LI of the House of Representatives relating to counseling and mediation shall remain in effect, and the employee may complete under that Act or Rule the requirements for counseling and mediation under sections 402 and 403. If, after counseling and mediation is completed, the Office has not yet opened for the filing of a timely complaint under section 405, the employee may elect—

(A) to file a complaint under section 307 of the Government Employees Rights Act of 1991 (2 U.S.C. 1207) or Rule LI of the House of Representatives, and thereafter proceed exclusively under that Act or Rule, the provisions of which shall remain in effect until the completion of all proceedings in relation to the complaint, or

(B) to commence a civil action under section 408.

(3) SECTION 1205 OF THE SUPPLEMENTAL APPROPRIATIONS ACT OF 1993.—With respect to payments of awards and settlements relating to Senate employees under paragraph (1) of this subsection, section 1205 of the Supplemental Appropriations Act of 1993 (2 U.S.C. 1207a) remains in effect.

(b) TRANSITION PROVISIONS FOR EMPLOYEES OF THE ARCHITECT OF THE CAPITOL.—

(1) CLAIMS ARISING BEFORE EFFECTIVE DATE.—If, as of the date on which section 201 takes effect, an employee of the Architect of the Capitol has or could have filed a charge or complaint regarding an alleged violation of section 312(e)(2) of the Architect of the Capitol Human Resources Act (Public Law 103–283), the employee may complete, or initiate and complete, all procedures under section 312(e) of that Act, the provisions of which shall remain in effect with respect to, and provide the exclusive procedures for, that claim until the completion of all such procedures.

(2) CLAIMS ARISING BETWEEN EFFECTIVE DATE AND OPENING OF OFFICE.—If a claim by an employee of the Architect of the Capitol arises under section 201 or 202 after the effective date of those provisions, but before the opening of the Office for receipt of requests for counseling or mediation under sections 402 and 403, the employee may satisfy the requirements for counseling and mediation by exhausting the requirements prescribed by the Architect of the Capitol in accordance with section 312(e)(3) of the Architect of the Capitol Human Resources Act (Public Law 103–283). If, after exhaustion of those requirements the Office has not yet opened for the filing of a timely complaint under section 405, the employee may elect—

(A) to file a charge with the General Accounting Office Personnel Appeals Board pursuant to section 312(e)(3) of the Architect of the Capitol Human Resources Act (Public Law 103–283), and thereafter proceed exclusively under section 312(e) of that Act, the provisions of which shall remain in effect until the completion of all proceedings in relation to the charge, or

(B) to commence a civil action under section 408.

(c) TRANSITION PROVISION RELATING TO MATTERS OTHER THAN EMPLOYMENT UNDER SECTION 509 OF THE AMERICANS WITH DISABILITIES ACT OF 1990.—With respect to matters other than employment under section 509 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209), the rights, protections, remedies, and procedures of section 509 of such Act shall remain in effect until section 210 of this Act takes effect with respect to each of the entities covered by section 509 of such Act.

SEC. 507. USE OF FREQUENT FLYER MILES.

(a) LIMITATION ON THE USE OF TRAVEL AWARDS.—Notwithstanding any other provision of law, or any rule, regulation, or other authority, any travel award that accrues by reason of official travel of a Member, officer, or employee of the Senate shall be considered the property of the office for which the travel was performed and may not be converted to personal use.

(b) REGULATIONS.—The Committee on Rules and Administration of the Senate shall have authority to prescribe regulations to carry out this section.

(c) DEFINITIONS.—As used in this section—

(1) the term ''travel award'' means any frequent flyer, free, or discounted travel, or other travel benefit, whether awarded by coupon, membership, or otherwise; and

(2) the term ''official travel'' means travel engaged in the course of official business of the Senate.

SEC. 508. SENSE OF SENATE REGARDING ADOPTION OF SIMPLIFIED AND STREAMLINED ACQUISITION PROCEDURES FOR SENATE ACQUISITIONS.

It is the sense of the Senate that the Committee on Rules and Administration of the Senate should review the rules applicable to purchases by Senate offices to determine whether they are consistent with the acquisition simplification and streamlining laws enacted in the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355).

SEC. 509. SEVERABILITY.

If any provision of this Act or the application of such provision to any person or circumstance is held to be invalid, the remainder of this Act and the application of the provisions of the remainder to any person or circumstance shall not be affected thereby.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. THOMAS] will be recognized for 20 minutes and the gentleman from Maryland [Mr. HOYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. GOODLING], chairman of the Committee on Economic and Educational Opportunities, be permitted to control 10 minutes of the 20 minutes which are controlled on this side and to yield that time in such blocks as he may determine.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

(Mr. GOODLING asked and was given permission to revise and extend his remarks, and to include extraneous material.)

Mr. GOODLING. Mr. Speaker, I am proud to rise in support of the bill before us because it is truly one of the most important initiatives this Congress will pass this year. Before I go any further, I want to thank the gentleman from Illinois [Mr. FAWELL] for the many hours over the many years, going back to 1990, that he has also spent in trying to help bring this day about, as well as our staff members, Randy Johnson and Gary Vischer. Its enactment, like the unfunded mandate legislation we will be considering later, will create a long-needed institutional brake, a yellow flag, on the passage of requirements this institution has too easily in the past imposed on employers. As importantly, the bill will finally extend the same workplace protections enjoyed by others to our own employees. Indeed, now that we are forced to comply with these laws, we might even learn from experience and better identify with the problems of

compliance endured by our constituents. In fact, I can guarantee it. Proposals for future workplace requirements and reform of existing laws will gather a lot closer attention by every Member of this body after enactment of this legislation. And it's about time. This bill, a product of compromise in negotiations between the House and Senate, is not absolutely perfect, but it is a major step forward.

Indeed, the only shadow cast over today is that it took so long in coming. As I have noted in the past, the hypocrisy of Congress in exempting itself from the laws it imposes on others is so obvious that one wonders how it so long escaped criticism, but I am gratified that those of us who have long fought—particularly in my committee—for strong congressional coverage with enforcement in the courts now have ample company.

But others will also comment on the virtues of this legislation, so let me set out, in the short time I have, a few general principles which I hope will provide guidance for the new Office of Compliance and the courts, to amplify the legislative history developed in the Senate.

First, as questions concerning the constitutionality of the bill have been, and will be, raised, I am submitting for the RECORD an April 10, 1991, analysis prepared by CRS at my request which concluded that legislation allowing congressional employees to bring lawsuits in court would likely be upheld and does not pose a serious constitutional question. Second, where there is any doubt on the matter, the office and the courts should apply the law in question as it is applied to private sector employers. Third, where the case law is divided in interpreting the relevant law, the Board and the courts should apply to the Congress the most rigorous interpretations, not the least rigorous. For example, where ambiguities in existing law have led some courts to interpret a particular damage provision expansively, while others have read that ambiguity in a more restrictive manner, the Board and the courts should apply the former interpretation under this act. The Congress should not be allowed to escape the problems created by its own failure to draft laws properly and, perhaps, through this approach we will be forced to revisit and clarify existing laws which, because of a lack of clarity, are creating confusion and litigation.

Let me make a few, more specific points. Although the bill is not entirely clear on this issue, the Board should be considered empowered to issue regulations under section 201 relating to protections against discrimination, subject, of course, to the general limitations on the Board's regulatory authority. The power of hearing officers to dismiss frivolous cases should be exercised only in the clearest situation where there is absolutely no merit to the claim being brought and assuming all relevant facts in favor of the employee. The counseling required under title IV should be truly employee friendly, informative but not coercive. Last, I expect that the protections for confidentiality will apply only where expressly stated; thus, for example, the report required under section 215 concerning the General Counsel's inspection of congressional facilities for OSHA violations would be made available to the public. We must not wrap proceedings under this law in a vail of secrecy, for to do so would be to lose the trust of the public.

Mr. Speaker, I would have included punitive damages and personal liability to the list of available remedies but will not here press the issue, for the legislation overall marks a giant step forward in disciplining this institution—in forcing us to slow down and more thoroughly consider the effect of the laws we impose on others, for now we will have to live by those same laws. I believe that after all of us are long gone, the positive impact of this initiative will remain.

LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, April 10, 1991.

To: Honorable William F. Goodling, attention: Randy Johnson.
From: American Law Division.
Subject: Constitutionality of authorizing private causes of actions by employees of Members of Congress against their employers.

This memorandum is in response to your inquiry with regard to whether the speech or debate clause of the Constitution, or, perhaps, some other constitutional provision, would be violated should Congress, in providing protections to employees, either those working for individual Members and for congressional committees or those working for the institution, by forbidding discrimination of the basis of race, color, sex, religion, or other prescribed grounds, authorize the employees to sue in federal court for alleged discrimination.

Implicated directly by any such proposal would indeed be the speech or debate clause assurance that Members of Congress ''shall not be questioned in any other Place'' for things said or done in the legislative process. Article I, §6, cl. 1. Additionally, a general separation of powers issue might be raised. As we understand the likely proposal, it would not include any authority for the Equal Employment Opportunity Commission, an executive branch agency, to police the employment relations of the legislative branch, which would in itself raise speech or debate and separation of powers questions.

This issue has occasioned much debate in Congress and out in recent years. It is not possible to make a definitive determination on the basis of the constitutional text and its history, structure, and purposes, and the judicial precedents are not dispositive. However, the text as informed by the interpretive judicial decisions does rather strongly suggest that the courts would sustain the validity of the enactment should Congress choose to take the step.

Although the following discussion is anchored in the judicial precedents, one must begin by acknowledging that it is the responsibility of each branch to make an independent interpretation of the meaning of the Constitution and that, while the decision in any particular instance may be reviewable by the courts, ultimately the Supreme Court, each branch owes to the others a respect for the reading of the Constitution developed in the court of governing. *United States* v. *Nixon*, 418 U.S. 683, 703 (1974). Even, therefore, if the Supreme Court's decisions were more directly declaratory of the law than they in fact are, Congress in acting on any measure may proceed on a different understanding of the metes and bounds of the Constitution.

SPEECH OR DEBATE CLAUSE

The speech or debate clause has a long lineage from the struggles of Parliament with the Crown in England, *United States* v. *Johnson*, 383 U.S. 169, 178 (1966), and in our scheme of things is designed to protect the independence and integrity of the legislature and to reinforce the principle of separation of powers. Ibid.; *United States* v. *Brewster*, 408 U.S. 501, 507 (1972). The protection of the clause is not limited to words spoken in debate. ''Committee reports, resolutions, and the act of voting are equally covered, as are 'things generally done in a session of the House by one of its members in relation to the business before it.''' *Powell* v. *McCormack*, 395 U.S. 486, 502 (1969) (quoting *Kilbourn* v. *Thompson*, 103 U.S. 168, 204 (1881)). Thus, so long as legislators are ''acting in the sphere of legitimate legislative activity,'' they are ''protected not only from the consequence of litigation's results but also from the burden of defending themselves.'' *Tenney* v. *Brandhove*, 341 U.S. 367, 376–377 (1972).

Not only is the Member protected when the clause applies, but his aides receive equal coverage. In *Gravel* v. *United States*, 408 U.S. 606, 616–617 (1972), the Court accepted the contentions urged on it by the Senate: ''that it is literally impossible, in view of the complexities of the modern legislative process, with Congress almost constantly in session and matters of legislative concern constantly proliferating, for Members of Congress to perform their legislative tasks without the help of aides and assistants; that the day-to-day work of such aides is so critical to the Members' performance that they must be treated as the latters' alter ego; and that if they are not so recognized, the central role of the Speech or Debate Clause * * * will inevitably be diminished and frustrated.'' Therefore, the Court held ''that the Speech or Debate Clause applies not only to a Member but also to his aides insofar as the conduct of the latter would be a protected legislative act if performed by the Member himself.'' Id., 618. See also *Doe* v. *McMillan*, 412 U.S. 306 (1973).

But the scope of the meaning of ''legislative activity'' has its limits. ''The heart of the clause is speech or debate in either House, and insofar as the clause is construed to reach other matters, they must be an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House.'' *Gravel*, supra, 408 U.S., 625. Immunity from civil suit, both in law and equity, and from criminal action based on the performance of legislative duties flows from a determination that a challenged act is within the definition of legislative activity. *Gravel*, for example, held that a grand jury could validly inquire into the processes by which a Member obtained classified information and into the arrangements for subsequent private republication of these documents, since neither action involved protected conduct, id., 626, and republication by a Member of allegedly defamatory remarks outside the legislative body, here through newsletters and press releases, was held unprotected, because it was not essential to the

legislative process. *Hutchinson* v. *Proxmire,* 441 U.S. 111 (1979). In *Doe* v. *McMillan,* supra, the Court held that Members and their aides were absolutely immune from liability for conducting an investigation and preparing a report, allegedly libelous, but that the Public Printer and the Superintendent of Documents could be held liable for distributing the report to the public beyond the channels of communication within Congress. Id., 412 U.S., 320–324.

Thus, a Member is immune when he is ''acting in the sphere of legitimate legislative activity.'' *Tenney* v. *Brandhove,* supra, 341 U.S., 376–377. His aides and presumably others acting at his direction are immune when he is. But when he acts outside the legislative sphere, he is not immune and neither are his aides or others directed by him. *Doe* v. *McMillan,* supra, 315–316.

Are Employment Decisions Immunized by the Speech or Debate Clause?

It has been strongly contended that the employment decisions of Members with respect to their aides, at least with respect to those aides who are essential to the performance of those legislative activities that are protected by the clause, fall fully within the protection of the speech or debate clause and ''shall not be questioned in any other Place.'' As we will see, that position has support in the case law, but a recent decision by the Supreme Court suggests the conclusion that a Member's hiring and firing practices are not legislative within the meaning of the clause.

In *Davis* v. *Passman,* 442 U.S. 228 (1979), a divided Court held that a female aide of a Member, discharged because the Member preferred a male for the job, had a cause of action under the due process clause of the Fifth Amendment to sue the Member for monetary damages.[1] Because the lower court had not passed on the contention that the speech or debate clause precluded the suit, the Supreme Court declined to do so at that stage. Id., 235–236 n. 11. The Court did hold that, inasmuch as the clause embodied for Members of Congress the concerns of the separation of powers doctrine for purposes of immunity from suit, it was the only source of immunity, not other principles of separation as well. Ibid. Chief Justice Burger, dissenting along with Justices Powell and Rehnquist, argued that separation of powers in combination with the speech or debate clause, both sharing common roots, did not permit the suit to go forward, id., 249, and Justice Stewart, dissenting, thought the speech or debate clause issued was ''far from frivolous'' and would have remanded so the court of appeals could decide it. Id., 251.[2]

In two decisions, the United States Court of Appeals for the District of Columbia Circuit attempted to formulate a standard to permit determination of applicability or nonapplicability of the clause to congressional employment decisions. The discharge of the manager of the House of Representatives' restaurants was the issue of *Walker* v. *Jones,* 733 F.2d 923 (D.C. Cir.), cert. den., 469 U.S. 1036 (1984). Essentially, the court thought inquiry should focus on whether an employee's duties could be viewed ''as work that significantly informs or influences the shaping of our nation's laws'' or whether an employee's duties were ''peculiar to a Congress member's work qua legislator,'' ''intimately cognate . . . to the legislative process.'' Id., 931. Under that standard, the clause did not apply to the employee. In *Browning* v. *Clerk, U.S. House of Representatives,* 789 F.2d 923 (D.C. Cir.), *cert. den.,* 479 U.S. 996 (1986), the discharge of an Official Reporter for the House of Representatives was challenged. The court held the congressional defendants to be immune under the speech or debate clause. The standard was ''whether the employee's duties were *directly related to the due functioning of the legislative process.*'' Id., 929 (emphasis in original). If the employee's duties are ''such that they are directly assisting members of Congress in the 'discharge of their functions,' personnel decisions affecting them are correspondingly legislative and shielded from judicial scrutiny.'' Ibid.

Requiring reconsideration of this developing case law, however, is *Forrester* v. *White,* 484 U.S. 219 (1988). The case unanimously held that a state court judge did not have judicial immunity in a suit for damages brought by a probation officer whom he had fired. The Court explained that in determining whether immunity attaches to a particular official action it applies a ''functional'' approach. ''Under that approach, we examine the nature of the functions with which a particular official or class of officials has been lawfully entrusted, and we seek to evaluate the effect that exposure to particular forms of liability would likely have on the appropriate exercise of those functions. Officials who seek exemption from personal liability have the burden of showing that such an exemption is justified by overriding considerations of public policy . . .'' Id., 224. Thus, it is ''the nature of the function performed, not the identity of the actor who performed it, that inform[s] our immunity analysis.'' Id., 229.

Judges have absolute immunity from liability for the performance of judicial functions. *Bradley* v. *Fisher,* 13 Wall. (80 U.S.) 335 (1872); *Pierson* v. *Ray,* 386 U.S. 547 (1967); *Stump* v. *Sparkman,* 435 U.S. 349 (1978). But when a judge acts in an administrative or a legislative capacity, he enjoys no judicial immunity. In the Court's view, ''Judge White was acting in an administrative capacity when he demoted and discharged Forrester. Those acts . . . may have been quite important in providing the necessary conditions of a sound adjudicative system. The decisions at issue, however, were not themselves judicial or adjudicative.'' Supra, 484 U.S., 229. Employment decisions, like many others, the Court continued, ''are often crucial to the efficient operation of public institutions,'' ibid., yet they are not entitled to absolute immunity, ''even though they may be essential to the very functioning of the courts* * *.'' Id., 228.

Forrester v. *White* was, of course, not a case governed by the speech or debate clause; it was brought under 42 U.S.C. §1983, which affords persons who have been denied their constitutional rights under color of state law a cause of action against state and local defendants. And, yet, the Court has, when passing on questions of legislative immunity in §1983 actions, looked to speech and debate principles, emphasizing that the clause itself is but a part of the much larger common-law principle of legislative freedom of speech. *Tenney* v. *Brandhove,* supra, 341 U.S., 372–379; *Supreme Court of Virginia* v. *Consumers Union,* 446 U.S. 719, 732 (1980). Indeed, the Court has said that ''we generally have equated the legislative immunity to which state legislators are entitled under §1983 to that accorded Congressmen under the Constitution.'' Id., 733. See also *Eastland* v. *United States Servicemen's Fund,* 421 U.S. 491, 502–503, 505, 506 (1975); *Dombrowski* v. *Eastland,* 387 U.S. 82, 84–85; *United States* v. *Johnson,* supra, 383 U.S., 180. If, therefore, *Forrester* v. *White* bears on the question of congressional immunity for employment decisions, it strongly suggests that for such decisions Members of Congress do not have immunity.

The D.C. Circuit in *Gross* v. *Winter,* 876 F.2d 165 (D.C.Cir. 1989), has read *Forrester* to apply to legislative immunity and has held that a legislator's employment decisions are not entitled to legislative immunity. *Gross,* too, is a §1983 case brought against a member of the City Council of the District of Columbia, but the court took the two previous decisions in the Circuit, *Walker* and *Browning,* to have stated the doctrinal standards, which must be modified in the light of *Forrester.* See also *Rateree* v. *Rockett,* 852 F.2d 946, 950 (7th Cir. 1988)(dictum). The *Gross* court, however, reserved the question ''whether special considerations applicable to members of Congress, such as separation-of-powers concerns, continue to justify the absolute immunity standard for congressional personnel decisions adopted in *Browning.*'' Supra, 876 F.2d, 172.

Ambiguity on this point clouds any analysis of *Forrester.* The Court observes at one point that it follows its ''functional'' approach in all cases, save for those that are governed ''by express constitutional or statutory enactment.'' *Forrester* v. *White,* supra, 484 U.S., 224. Paramount of the express constitutional provisions, it then notes, is the legislative immunity created by the speech or debate clause. ''Even here, however, the Court has been careful not to extend the scope of the protection further than its purposes require.'' Ibid. The Court then refers to *Davis* v. *Passman,* supra, for its holding that except for speech or debate clause immunity, a Member of Congress may be liable for his employment decisions. Ibid., But when, later in the opinion, the Court observed that, no less than a judge's ability to hire and fire employees as bearing on his ability to carry out his judicial functions is the similar ability of executive branch officials to hire and fire, and executive officials have no such immunity as the judge was claiming, the Court made no reference at all to employment decisions by legislators. Id., 229.

Some conflicting lines of precedent thus exist. Staffs of Members are so essential to the functioning of the legislative process that under *Gravel* they are entitled to the same speech or debate immunity that the Members have. This suggests that the clause could very well protect the Members' discretion in choosing to hire or to keep or not keep any person they want on their staffs. At the same time, the *Forrester* decision forecloses this mode of analysis for judges (as well as those executive officers with some measure of immunity). It is simply not relevant that the employee or aide is essential to the execution of the official's function or crucial to the efficient operation of his office. What is relevant is whether the function for which the judge is being questioned is judicial or adjudicative; if it is administrative, or legislative, judicial immunity does not attach.

Legislative immunity could be similarly analyzed. When the Member is engaged in legislative activity, he and his assisting aides are entitled to speech or debate immunity; when the Member, or an aide deputized by him, is engaged in an administrative function, such as hiring or firing staff, neither has speech or debate immunity. The conceptual difficulty is that in being ''careful not to extend the scope of the protection

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[1] In *Bivens* v. *Six Unknown Named Agents of the Bureau of Narcotics,* 403 U.S. 388 (1971), the Court held that a person, alleging violation of his Fourth Amendment search and seizure protection, in the absence of a statutory remedial cause of action, could sue the individual officers for damages under an implied cause of action premised directly upon the constitutional provision in question. *Davis* v. *Passman* extended this ruling, by basing the implication of a cause of action upon the Fifth Amendment's due process clause, which contains an equal protection component, when the Federal Government or someone acting under its authority performs an allegedly discriminatory act.

[2] The case was settled after the Supreme Court remanded it for further proceedings, and no speech or debate clause resolution was reached.

[of the speech or debate clause] further than its purposes require,'' *Forrester,* 484 U.S., 224 the Court has construed the application of the clause to depend upon the connection of the acts challenged to the legislative process. In the context of *Gravel,* the ''purposes'' served by the clause required coverage of aides. But hiring and firing an aide is not legislating, anymore than discharging the probation officer was a judicial act of Judge White. A tension exists here, but on the strength of *Forrester,* a persuasive argument can be made that the speech or debate clause does not encompass employment decisions.

In any event, certain employees of the institution, such as the manager of the House of Representatives restaurant involved in *Walker* v. *Jones,* supra, have only a tenuous relationship to the legislative function. Under the precedents preceding *Forrester,* it appears that Congress could have provided a judicial remedy for them. Similarly, not all personal aides of Members assist in the legislative function as explicated by the Court. Some deal with constituent relations; some do casework and other activities with the executive branch and the like. Even if, therefore, employment decisions concerning aides assisting the Member exclusively in the legislative function were immune, the same decisions with respect to other employees would not be. Difficulties of application, it is safe to say, would be great.

Certainly, an express decision made legislatively by Congress that employment decisions of Members can be placed outside coverage of the speech or debate clause would be a determination by the body most familiar with the issue that should be entitled to special deference by the courts when they are called upon to pass on the question of the validity of congressional coverage under an appropriate statute.

May Congress Waive Speech or Debate Immunity From Suit?

Even if it is eventually determined, either by Congress or by the courts, that employment decisions are encompassed by the clause, the validity of judicial cognizance of questions arising from the relationship could still be defended on the basis that Congress may waive the protection of the clause by an express provision of law and give jurisdiction of an issue to the courts. Absent clearly applicable case law, we can, at this point, but speculate about how the Supreme Court might eventually resolve the question.

Twice now, the Court has reserved the issue, in the context of criminal prosecutions of Members. ''[W]ithout intimating any view thereon, we expressly leave open for consideration when the case arises a prosecution which * * * is founded upon a narrowly drawn statute passed by Congress in the exercise of its legislative power to regulate the conduct of its members.'' *Johnson,* supra, 383 U.S., 185. See also *Brewster,* supra, 408 U.S., 529 n. 18. But in the latter case, three dissenters reached the issue and would have ruled that Congress may not authorize the courts to try Members for conduct protected by the speech or debate clause. Id., 529, 540–549 (Justices Brennan and Douglas), 551, 562–563 (Justices White, Brennan, and Douglas). Both *Johnson* and *Brewster* were criminal cases, the paradigmatic kind of executive invasion of legislative privilege with which the parliamentary proponents of legislative integrity and the Framers were concerned. It may be that with respect to civil cases, especially civil cases in which the plaintiff is a private citizen, the concern is of a lesser nature, see *Gross* v. *Winter,* supra, 876 F.2d, 172–173 n. 11, but the clause clearly applies to both criminal and civil suits, and the Court, with one exception not relevant in this context, has indicated no difference of treatment based on the nature of the cause of action. See *Supreme Court of Virginia,* supra, 446 U.S., 733 (noting *United States* v. *Gillock,* 445 U.S. 360 (1980)).

Facially, the clause seems to make jurisdiction over Members for conduct covered by the clause exclusive with the respective House of each Member. That is, ''for any Speech or Debate in either House, they shall not be questioned *in any other Place.*'' That exclusivity is the necessary conclusion from the plain language of the clause is hardly compelling. It merits mention that Congress is given by the Constitution, Article I, §5, cl 2, the power to punish its Members for disorderly behavior and even to expel a Member by a two-thirds vote of the respective House. This power to punish is a complementary authority to speech or debate immunity, inasmuch as the drive of the English Parliament for legislative freedom included the successful assertion of the power to punish members for offenses for which they were immune to executive prosecution. Colonial and state legislatures in this country and the Federal Congress all claimed the same power as part of the same consideration. See *Anderson* v. *Dunn,* 6 Wheat. (19 U.S.) 204 (1821); *Watkins* v. *United States,* 354 U.S. 178, 188–199 (1957); *United States* v. *Brown,* 381 U.S. 437, 441–446 (1965); *Powell* v. *McCormack,* supra, 395 U.S., 522–548. As the Court has observed, Congress' power to punish Members, even to expulsion, is quite broad, extending ''to all cases where the offence is such as in the judgment of the Senate [and, no doubt, the House of Representatives] is inconsistent with the trust and duty of a member.'' *In re Chapman,* 166 U.S. 661, 669–670 (1897). In exercising its powers under this grant of authority, the Senate or the House of Representatives ''acts as a judicial tribunal'' and its powers to adjudge ''is in no wise inferior under like circumstances to that exercised by a court of justice,'' *Barry* v. *United States ex rel. Cunningham,* 279 U.S. 597, 616 (1929).

In *Burton* v. *United States,* 202 U.S. 344 (1906), a Senator convicted for accepting money to influence an executive department, conduct not protected by the speech or debate clause, argued that the statute under which he was charged conflicted with the provision of Article I, §5, cls. 1 & 2, making each House the sole judge of the qualifications of its Members and giving each House the authority to punish its Members for disorderly behavior. Cf. *Kilbourn* v. *Thompson,* supra, 103 U.S., 183 (The Constitution ''is not wholly silent as to the authority of the *separate* branches of Congress to inflict punishment. It authorizes *each* House to punish *its own members.*'') (emphasis added). Rejecting the contention, the Court observed: ''While the framers of the Constitution intended that each Department should keep within its appointed sphere of public action, it was never contemplated that the authority of the Senate to admit to a seat in its body one who had been duly elected as a Senator, or its power to expel him after being admitted, should, in any degree, limit or restrict the authority of Congress to enact such statutes, not forbidden by the Constitution, as the public interests required for carrying into effect the powers granted to it. In order to promote the efficiency of the public service and enforce integrity in the conduct of such public affairs as are committed to the several Departments, Congress, having a choice of means, may prescribe such regulations to those ends as its wisdom may suggest, if they be not forbidden by the fundamental law.'' Id., 202 U.S., 367. That is, Congress, though the Senate had the power to punish the Member itself, could enact legislation providing for his trial in the courts of the United States.

Similarly, though each House has the power, pursuant to the legislative power of inquiry, to punish contempts by witnesses before it or one of its committees, *Anderson* v. *Dunn,* supra; *Marshall* v. *Gordon,* 243 U.S. 521 (1917); *McGrain* v. *Daugherty,* 273 U.S. 135 (1927); *Jurney* v. *MacCracken,* 294 U.S. 125 (1935), it may also provide for trial and punishment before the federal courts. In 1857, because imprisonment could extend no further than the adjournment of the House which ordered it and because contempt trials before the bar of the charging House were time consuming, Congress enacted a statute providing for criminal process in the federal courts with prescribed penalties for contempt of Congress. Act of January 24, 1857, 11 Stat. 155. With only minor modifications, this statute is now 2 U.S.C. §192.

Holding that the purpose of this statute is merely supplementary of the power retained by Congress, the Supreme Court has rejected all constitutional challenges to it. ''We grant that Congress could not divest itself, or either of its Houses, of the essential and inherent power to punish for contempt, in cases to which the power of either House properly extended; but because Congress, by the Act of 1857, sought to aid each of the Houses in the discharge of its constitutional functions, it does not follow that any delegation of the power in each to punish for contempt was involved.'' *In re Chapman,* supra, 166 U.S., 671–672.

The lesson of these cases is that Congress' power under Article I, §8, cl. 18, to enact all laws which are ''necessary and proper'' to execute its powers, includes the power to enact laws which implement and execute the powers of each House to govern itself. Congress regularly, pursuant to its authority to ''determine the Rules of its Proceedings,'' enacts legislation binding both Houses to observance of procedural and substantive matters. The Legislative Reorganization Acts of 1946 and 1970, 60 Stat. 834, 84 Stat. 1175, contained extensive provisions affecting one House or the other as well as both bodies, and the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, 99 Stat. 1037, made similar extensive provisions. Of course, each House retained the power to make unilateral changes, pursuant to the authorization to determine the rules of proceedings, but as to the power to enact legislation for both Houses there was no doubt.

Establishing that there is no necessary exclusivity simply because the Constitution imposes a power or duty on Congress, or on one House thereof, merely addresses one half of the equation, however. The provisions discussed above involved delegations or authorizations to each House, whereas the speech or debate clause appears on its face to be directed to the protection of the *individual* Senator or Representative. It has been observed by the Court that ''[t]he immunities of the Speech or Debate Clause were not written into the Constitution simply for the personal or private benefit of Members of Congress, but to protect the integrity of the legislative process by insuring the independence of individual legislators.'' *United States* v. *Brewster,* supra, 408 U.S., 507. See also *Kilbourn* v. *Thompson,* supra, 103 U.S., 203.

Practice by the House of Representatives considers the response of a Member to a subpoena or other legal process to raise a question related to the dignity of the House and the integrity of its proceedings. ''The rules and precedents of the House require that no Member, official, staff member, or employee of the House may, either voluntarily or in obedience to a subpena, testify regarding official functions, documents, or activities of the House without the consent of the House

being first obtained.'' 3 DESCHLER'S PRECEDENTS of the UNITED STATES HOUSE of REPRESENTATIVES, H. Doc. 94–661 (1979), ch. 11, §14. See *In re Grand Jury Investigation (Eilberg)*, 587 F.2d 589, 592–593 (3d Cir. 1978) (House acquiescence to grand jury subpoena). This practice reflects the institutional interest of the House in the protection of the clause and might, without more, support enactment of legislation based on Congress' necessary and proper power.

Personal interest, a purely individual interest divorced from the institutional interest, in the protection of the clause has also been recognized, though. In *Coffin*, v. *Coffin*, 4 Mass. 1, 27 (1808), speaking of the Massachusetts equivalent of the federal clause, Chief Justice Parsons said: ''In considering this article, it appears to me that the privilege secured by it is not so much the privilege of the house as an organized body, as of each individual member composing it, who is entitled to this privilege, even against the declared will of the house. For he does not hold this privilege at the pleasure of the house; but derives it from the will of the people, expressed in the constitution, which is paramount to the will of either or both branches of the legisalture. In this respect the privilege here secured resembles other privileges attached to each member by another part of the constitution, by which he is exempted from arrests on *mesne* (or original) process, during his going to, returning from, or attending the general court. Of these privileges, thus secured to each member, he cannot be deprived, by a resolve of the house, or by an act of the legislature.'' The significance of this particular case is that the Supreme Court has pronounced it to be perhaps ''the most authoritative case in this country on the construction of the provision in regard to freedom of debate in legislative bodies * * *.'' *Kilbourn* v. *Thompson*, supra, 103 U.S., 204. See also *Tenney* v. *Brandhove*, supra, 341 U.S., 373–374; *United States* v. *Brewster*, supra, 408 U.S., 513–517. While the Court has quoted these lines in a case only tangentially, if that, relevant to the question, *Spallone* v. *United States*, 110 S.Ct. 625, 634 (1990), its explanation of the reasons underlining the clause gives weight to the personal protection accorded individual Members as well as to the institutional interest. *Brewster*, supra, 408 U.S. 501; *Tenney* v. *Brandhove*, supra, 341 U.S., 372–373.

To be sure, there were instances in English history in which Parliament contrived to deny the protection of the privilege to Members. For example, John Wilkes was denied his parliamentary privilege and thereafter convicted in court for seditious libel, *Powell* v. *McCormack*, supra, 395 U.S., 527–531, but this case was such a *cause celebre*, here as well in England, that adoption of its particular approach silently into the speech or debate clause is unlikely, to say the least.

It thus must be concluded that the power of Congress to waive the clause by expressly making Members subject to judicial process for covered conduct is unsettled. It is not, however, foreclosed as a possibility, inasmuch as the exclusivity argument has not been accepted in other contexts involving Article I, §§5 and 6. But the function of the clause as a protection of institutional interests through a protection of the individual legislators personal rights does weigh considerably against the possibility of institutional waiver. If Congress should enact a statute, making the determination that it can waive, again the fact that the body for whom the protections of the clause were intended has reasoned that its institutional interests would not be adversely affected by judicial exercise of the power would doubtlessly be given substantial deference by the courts. That the clause protects the individual interests of each Member, even though in the long run the protection is to further the institutional interest of the legislative body, would perhaps require some balancing by the courts. Acceptance of such a statute would appear, however, at this stage, to be problematic.

One should note, however, that when the employment decision is that of either the House of Representatives or the Senate, as an institution, as in the employment of restaurant workers elevator operators, and the like, or even of employees more closely associated with the legislative process, such as the Official Reporter before the court in *Browning*, the ability to waive immunity against the institution might be more easily answered.

SEPARATION OF POWERS

Additionally, a general separation of powers issue may be independently raised. It is true that in *Davis* v. *Passman*, supra, 442 U.S., 228–229 n. 11, the Court stated that unless the speech or debate clause protected Members, they were not protected generally by the separation of powers doctrine. The *Gross* v. *Winter* court did, however, pause to consider whether an absolute immunity for Members making employment decisions might be justified under the doctrine of separation of powers, regardless of the inapplicability of the speech or debate clause. Supra, 876 F.2d, 172.

Briefly, the Court has adopted in its separation of powers decision-making a standard that evaluates whether there is encroachment and aggrandizement. That is, does the action of one branch toward another threaten to ''impermissibly undermine'' the powers of the other or threaten to ''disrupt the proper balance between the coordinate branches [by] prevent[ing] the [branch acted upon] from accomplishing its constitutionally assigned functions.'' *Morrison* v. *Olson*, 487 U.S. 654, 693–696 (1988); *Mistretta* v. *United States*, 488 U.S. 361, 380–384 (1989). See also *United States* v. *Nixon*, 418 U.S. 683, 713 (1974); *Nixon* v. *Administrator of General Services*, 433 U.S. 425, 422–443 (1977). Without intending to treat the issue superficially, we must observe that Congress has given the federal courts cognizance of employment discrimination in the executive branch of the Federal Government, and much litigation has ensued without suggestions that this extension of employment discrimination law has upset the balance of the separation of powers. Therefore, by parity of concern, it would seem evident that if the speech or debate clause is no impediment to judicial causes of action for the employees of congressional Members, the doctrine of separation of powers will present no barrier.

CONGRESSIONAL INSTRUMENTALITIES

Whether a constitutional problem would arise from application of employment discrimination laws, with judicial remedies, to the instrumentalities of Congress[3] is a question that may be quickly disposed of. In the course of its legislative provision of remedies against employment discrimination, beginning in 1972, Congress has extended to the Library of Congress and to those units in the legislative branch which have positions in the competitive service the guarantees and judicial remedies of title VII of the Civil Rights Act of 1964 (as amended in 1972), 42 U.S.C. §2000e-16(b), and the Age Discrimination in Employment Act of 1967 (as amended in 1978), 29 U.S.C. §633a(a). The General Accounting Office, which is a legislative branch agency for some purposes and an executive branch agency for others,[4] is covered by these two Acts and by the Rehabilitation Act of 1973.[5] However, the Americans With Disabilities Act of July 26, 1990, P.L. 101–336, §509(c), 104 Stat. 375, in applying the Act to these instrumentalities, provided for administrative enforcement by the agencies only.[6]

To be sure, some employees of some of these agencies in working with Members and the staffs of Members certainly participate in the legislative process in the sense of the term that the Supreme Court has used in interpreting the speech or debate clause. Employees of the Congressional Research Service of the Library of Congress and of the Congressional Budget Office do so participate, and there is authority that for actions CRS employees, for instance, take in the performance of the legislative function they are immune under the speech or debate clause. See *Webser* v. *Sun Co., Inc.*, 561 F.Supp. 1184 (D.D.C. 1983), *vacated and remanded*, 731 F.2d 1 (D.C.Cir. 1984), *on further appeal*, 790 F.2d F.2d 157 (D.C.Cir. 1986). Other members of the Library of Congress staff perform other functions not related to the legislative process. See, e.g., *Eltra Corp.* v. *Ringer*, 579 F.2d 294, 298–301 (4th Cir. 1978)(position of Register of Copyrights). Similarly, it is questionable that, for instance, employees of the United States Botanic Garden participate in the legislative function as defined by the Supreme Court.

If Congress should adopt the reasoning of an earlier portion of the memorandum to the effect that employment decisions are administrative functions not so inextricably tied to the legislative function as to implicate the speech or debate clause, the issue is easily settled. But even if the personal staffs of Members, or at least the legislative affairs employees of the Members' personal staffs, are determined to be covered by the speech or debate clause that they may not be authorized to seek judicial relief for proscribed practices, it does not follow that the employees of congressional instrumentalities are likewise covered. Those who do not assist Members in the carrying out of their legislative responsibilities would seem clearly to be outside the scope of the clause. Those who do assist Members in the carrying out of their legislative responsibilities may well be immune for their actions while so assisting, but what is the legislative function of the employment decisions of the agencies who hire, fire, and oversee their employment that gives those decisions legislative immunity?

A more compelling reason exists for doubting that the clause would require that employees of these agencies be remitted to purely administrative remedies. The speech or debate clause provides that for their performance of their legislative functions the Members of Congress are not to be questioned in any other place. A challenge to an agency decision respecting the employment rights of an employee would be a suit against the agency. The Library of Congress or the Government Printing Office would be sued, not a Member or Members, not the House of Representatives or the Senate. There is no facile attempt at word play in this distinction.

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[3] For purposes of this memorandum, the instrumentalities of Congress include the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the United States Botanic Garden. Americans With Disabilities Act of July 26, 1990, P.L. 101–336, §509(c)(4), 104 Stat. 375.

[4] See *Bowsher* v. *Synar*, 478 U.S. 714 (1986).

[5] These Acts apply to ''executive agencies'' as defined in 5 U.S.C. §105, which specifies that, for purposes of title 5, ''executive agency'' includes an ''independent establishment,'' which in turn is defined by 5 U.S.C. §104(2) to include GAO.

[6] The proposed Civil Rights Act of 1990, S. 2104, §16(c), 101st Congress, would have limited enforcement of the Act and of Title VII to administrative enforcement within each agency.

Thus, in *Kilbourn* v. *Thompson*, supra, although Congress could not be sued for ordering the arrest of Kilbourn, nor could any Member be sued for voting for the resolution, the Sergeant at Arms who carried out the legislative directive to take Kilbourn into custody was suable and liable. In *Doe* v. *McMillan*, supra, neither the Members nor the committee staff who carried out the investigation and the subsequent preparation and publication of the report on the investigation could be sued, but the two officers, the Public Printer and the Superintendent of Documents, who carried out the congressional directive to distribute the report outside Congress were suable. In *Powell* v. *McCormack*, supra, 395 U.S., 503–506, the Court held that it was proper to name several officers and employees of the House of Representatives as defendants in order that the act of the House in excluding the Member-elect could be challenged.

That Members of Congress are immune for the act of voting for a measure that may be unconstitutional does not mean that the enacted measure may not be challenged in court, such as by suing one charged with its enforcement for a declaration of invalidity. Congressional actions may be challenged, even if the congressional actors may not be. See e.g., *Powell* v. *McCormack*, supra. Thus, it would seem to follow that the actions of a legislative agency proceeding under general congressional direction could be challenged without implicating the strictures of the speech or debate clause. At the least, with the existence of an enacted policy against employment discrimination, the employing agency would, at the least, be acting *ultra vires* were it to make decisions on the prohibited grounds.

CONCLUSION

First, application to Congress of the employment protection provisions of federal civil rights laws, at least in the context of authorizing judicial remedies, could raise problems under the speech or debate clause. Under one possible analysis, some employees would be sufficiently removed from the legislative process so that decisions about them may well not implicate the clause at all, whereas other employees are so integral to the legislative process that their employment would be covered. But if the Supreme Court's *Forrester* decision provides the appropriate mode of analysis, an employment decision of a Member with respect to all staff would be an administrative decision not entitled to speech or debate clause protection. Especially if Congress should conclude that *Forrester* is the correct analysis, in the course of extending the laws, it seems likely that the courts may well defer to that determination.

Second, if it is concluded that the speech or debate clause applies to the employment decisions of Members, an argument exists that Congress may expressly waive the protection and subject Members to suit. Little actual authority exists for the proposition, but there is little on the other side either. The matter is largely one of deductions from basic principles and analogies. But the argument from general principles in favor of waiver is significantly weaker than the argument that the clause does not apply in the first place.

Third, it would appear that regardless of the conclusion with respect to the personal staffs of Members, the employees of a number of agencies associated with Congress would be sufficiently removed from the legislative process that the clause would not apply. With respect to other such employees, who are more involved in the legislative process, the fact that the employment decisions are made by the agencies themselves and not by Congress or an individual Member could bring the decisions outside the scope of the clause.

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Mr. Speaker, I reserve the balance of my time.

Mr. HOYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today with mixed feelings. On the one hand, I want to tell the House I am pleased that the House is moving forward on legislation we have been working on for many years only to see it thwarted, frankly, in the Senate by Republican politics. Yet today in a bipartisan fashion we are on the floor in what will hopefully be the final stages in this legislative drama.

However, the legislation before us today is new to the House. Although this bill has been the subject of extensive debate in the Senate, it has not had one hearing in the U.S. House of Representatives. The American public, I am told today in a 1-minute, voted for reform, voted to open up this institution, and voted for democratization in debate and extensive analysis of programs. There was not one hearing in the House of Representatives during the 104th Congress on this bill.

It was first brought up on this floor just 13 days ago in a different form under a completely closed rule. Today a new version is before us, with little if any opportunity for review and no chance for amendment. If this is the new wind blowing through the House of Representatives, then it is a wind that blows little good.

H.R. 1 was the first piece of legislation to move through the new House of Representatives. It did so under a process in which no Member could suggest changes. Today it is back, as I have said, in a new version. It is again brought to the floor of this House under a completely closed process.

This should be, in my opinion, Mr. Speaker, a day of pride for this House. It should be a day of joy, but instead it is a day of sadness for a Congress that started out with such anticipation of a new day. Instead, on day 6 of the 104th Congress we can clearly declare power and muscle are the rule of order of this House, not the rule of democracy.

Having said that, having expressed the concern of this side of the aisle about the process, let me talk about the substance. S. 2, as I said, will finally bring into place a process which many of us fought for for a long time. It will provide protection and antidiscrimination laws to congressional employees and employees of other legislative-branch agencies. My good friend, the gentleman from Connecticut [Mr. SHAYS], a Republican, has been a leader in this effort with Mr. SWETT, a Democrat from New Hampshire. Mr. SHAYS is to be commended for his tenacity, for his courage in the light of stiff opposition from time to time, and for his tireless efforts in bringing this bill before us today. He has performed a service for this House and for this country.

I believe that S. 2 is an improvement, very frankly, over the House bill. S. 2 spells out the rights, protections, remedies, and procedures provided to congressional employees. The bill establishes an independent nonpartisan Office of Compliance to develop the regulations applying the laws to Congress and to resolve complaints. It will be composed of a five-member board of directors whose board is selected on a bipartisan, bicameral basis similar to the old rules for the House administrative officer. Former Members of Congress and current staff are prohibited from serving on the board. No Member of the House or Senate nor any House or Senate employee can serve as hearing officer on a complaint.

Most importantly, any party aggrieved by a board decision can seek judicial review by the U.S. Court of Appeals for the Federal Circuit, and employees can bring suit directly in Federal district court after mediation and counseling if that is allowed under the applicable statute. This is an important new right for congressional employees, and I am pleased that we are finally moving forward on this effort.

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This is an important new right for congressional employees. I am pleased that we are finally moving forward on this effort.

As I have said on the floor, Mr. Speaker, many times, of all the talk of reform, of all the speechifying, the one reform that my constituents, and I gainsay every representative's constituents, have always asked for, and the one reform that I have always thought was justified and real, this is it, covering Congress by the same laws we ask others to live under.

Congress should live under the laws it passes, and, my colleagues, in most cases, civil rights, the ADA, fair labor standards, family and medical leave, to name a few, it has, let me repeat that, this House has lived under those statutes. S. 2, however, improves congressional coverage and provides an outside remedy for employees, a critical addition to present protections.

This is a change whose time has not only come but is overdue. I am proud to be on the floor today with the gentleman from Connecticut [Mr. SHAYS] and the gentleman from California [Mr. THOMAS] and others, and the gentleman from Pennsylvania [Mr. GOODLING], Members on our side. I regret that Mr. Sweet is not here because he fought very hard. And through his leadership and that of the gentleman from Connecticut [Mr. SHAYS], this similar legislation passed the House, as I said earlier, and was killed in the Senate.

I would urge today my colleagues to support this legislation in spite of the heavy-handed procedural railroad on

which this bill comes to the floor today.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Maryland indicates that the bill that we have before us has not had a single hearing on the House side. Yet he commends its content to be superior than the bill that we examined on the House side.

The chairman of the Committee on Economic and Educational Opportunities lamented the fact that it has taken us so long to get here. I think it might be useful for a minute or two to visit the chronology of how we got here today.

Way back on July 28, 1994, the Committee on House Administration voted 19 to 0 to pass essentially what we have in front of us onto the House, with the hope that in July, having moved out of committee, by the end of the second session of the 103d Congress, this would have passed the House and the Senate and moved to the President for his signature.

As Members will recall, very little went through the entire legislative process in the 103d Congress, and this is one of them.

It is true that on August 10, the House voted 427 to 4 to adopt what is essentially in the measure that we have today. There were four Members of the minority, then the majority, who voted against it. Having sent that position over to the Senate and the Senate's failure to consider the position, on October 7, the House decided to take it upon itself to impose the structure of what would have been legislation on the House through the rules process.

At that time the vote was 348 to 3. The three votes in opposition to the measure were clearly not substantive opposition. The Members on our side of the aisle were in fact protesting the failure of the then majority to move any significant reforms in the 103d Congress. Notwithstanding that, we imposed this on ourselves through the House rules.

The only substantive difference in S. 2 from H.R. 1, I believe, is the addition of the Veterans Reemployment Act to the list of bills under which Congress will now operate. In addition to that, we were able to work out the very real concerns of the Senate over a single shared structure so that the Office of Compliance would fit the needs of the House and the Senate with our different size and procedures, history and tradition. That has been resolved in this bill.

So we stand on the brink of living up to what this majority said we were going to do in the contract and on January 4.

I think it is interesting to note that this House voted out of committee, on July 28, 1994, in essence this measure. On August 10, 1994, it was voted out of the House and nothing happened. In this Congress, in the 104th Congress, Republicans and Democrats joining together on the opening day of the session, 429 to 0, passed this measure. And then here today, despite the rhetoric, I think Members will find the votes will once again be overwhelmingly in favor of Congress placing itself under the laws that the rest of the Nation has to live with.

We will do it in a timeframe that is certainly appropriate. The timeframe should have been honored in the 103d. The then majority could not deliver. The timeframe is being honored in the 104th, and the current majority will deliver.

Mr. Speaker, I reserve the balance of my time.

Mr. HOYER, Mr. Speaker, just to review history for 1 second, this legislation passed the House in August 1993. It was because of Republican opposition to procedure in the Senate that it failed to go forward.

Mr. Speaker, I yield 3 minutes and 30 seconds to my good friend, the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, this is an important bill, and I am proud to be a cosponsor of this bill as it passes the House of Representatives today. Although I am happy that the bill is passing, because I think it sets an important precedent, at the same time it sets a very embarrassing and disappointing precedent. Let me explain.

When this bill was considered by the Congress in the 103d Congress, it included not only the language that we have in the bill today, but it also prohibited Members of the House of Representatives from using frequent-flier miles that they have accrued for official use, prohibited them from being used for personal use. This is the type of reform that Americans think is common sense. Of course, no Member of Congress should be able to use the miles that he or she has accrued with taxpayer dollars, be allowed to accrue those miles and use them for personal use.

When it passed the 103d Congress, no one batted an eyelash. No calls of germaneness were made. It was included in the provisions of the bill. But when we got to the floor in the 104th Congress, there was a gag rule in effect. This provision, which was included in the bill last year, was not included this year. It was gagged, and we were not permitted to bring it as an amendment.

The Senate looked at it a little differently. And the Senate decided that it made sense. It made sense for the Senate to prohibit its Members from using frequent-flier miles for personal use. But out of respect for this Chamber, it decided that it would not impose the same law on the House of Representatives.

So the irony we are faced with today is that we have a law based on the premise, a good premise, which I support, which says that any law that applies to members of the general population should also apply to Members of Congress.

That is a step forward, But at the same time, for the first time that I can discover in the history of this country, we are going to pass a law that says that a law that applies to the Members of the U.S. Senate does not apply to the Members of the House of Representatives.

Why are we doing that? Why do we have a higher standard for the Members of the U.S. Senate than we do for the Members of the U.S. House of Representatives?

I would argue that the reason we do is because the new leadership does not want to have a higher standard for the Members of the House of Representatives. In fact, the new Speaker has labeled this reform a Mickey Mouse reform, a Mickey Mouse reform to save taxpayers hundreds of thousands of dollars. Well, I think the Speaker is correct in drawing on Walt Disney for his analogy, but I think a more apt character to draw on would be Goofy, because it is simply goofy to argue that Members of the House of Representatives can use taxpayer-funded travel to accrue frequent-flier miles and use them for personal vacations to Florida, Hawaii, France, anywhere in the world.

□ 1200

The very first piece of legislation that will become law after the Republicans have gained control of the House in 40 years is going to set a lower standard of conduct for the Members of the House of Representatives than the U.S. Senate. I will vote for this bill because I agree with the underlying premise of the main portion of the bill, but it is embarrassing and disappointing with the precedent we are setting today.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would tell the gentleman from Wisconsin [Mr. BARRETT] that we are in the process of reviewing all of the rules and regulations in the House of Representatives, and at the end of the last Congress we committed to review all of them, including these.

Perhaps from a historical point of view the gentleman from Wisconsin also needs to know that rather than this being the first time in the history that the laws applied differently to the House and Senate, he needs to know that there was a period of time in which the actual compensation to Members of the Senate and the House was different under the law.

Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut [Mr. SHAYS], one Member who was more responsible than anyone in the House today for this being in front of us.

Mr. SHAYS. Mr. Speaker, I want to just say very clearly that this is no one person's bill. I mean that very sincerely, because in fact there are more

fingerprints on this bill from Members of both sides of the aisle.

I would like to take this time first to thank the gentleman from Maryland STENY HOYER, for stepping in and taking the place of Dick Swett, who was not returned to office, who has worked on the Democratic side with me working on the Republican side, on this issue, and to thank him and his staff for doing such an excellent job in helping to draft this legislation and the legislation that passed the House earlier in this session.

Also I would thank both the chairman of the Committee on Government Reform and Oversight and to the new empowerment committee, both the gentleman from California [Mr. THOMAS] and the gentleman from Pennsylvania [Mr. GOODLING], because they have been working on this issue for years and years and years.

Without their work, and particularly, with no disrespect to the Members, but their extraordinary staff, who have weighed in tremendously on this issue, have had an amazing contribution.

I see the gentleman from Massachusetts [Mr. FRANK], as well, who over a year ago said to me that he had a conversation with the former Speaker encouraging him to move forward with congressional accountability, and that, frankly, was the major movement that brought this bill forward. Without the effort of the gentleman from Massachusetts [Mr. FRANK], done behind the scenes, without a lot of credit, this bill also would not move forward, so I think I need to thank the prior Speaker, and thank the present Speaker for working on this issue.

In a summary form, and I would like to then just briefly touch on the concern of the gentleman from Wisconsin [Mr. BARRETT], because it is valid, I would like to just make the point that when we passed our House congressional accountability last year, the strength of the legislation was that we applied all of the laws we imposed on the private sector onto Congress, and that we applied all the instrumentalities that are part of what makes up Congress: the Library of Congress, the GAO, the Architect's Office, and so on. Additionally, very importantly, we gave people full access to the court, with all the rights of going to civil action, de novo review, as well as being able to have judicial review.

That was the strength of what we did. We also set up this Office of Compliance so that we dealt with the separation of powers, but gave this Office of Compliance independence.

The weakness in our bill, if there was a weakness, was that we did it by regulation, in that we asked the Office of Compliance to then get us under all the laws by regulation, rather than by law, even though in the end we saw we are under the law, but the actual process was going to be determined by the Office of Compliance through regulation. So the strength was all the laws, all the instrumentalities, full access to the court, but we did it by regulation.

The Senate last year passed legislation on congressional accountability, admittedly very late, and ultimately it never even had a debate on the floor of the Senate; but what they did was, they did not include all the laws, all the instrumentalities, or give full access to court in their legislation. That was the weakness of their legislation. The strength was they went directly to law.

So after this, the defeat, or actually the failure of the Senate to deal with this issue, Republicans and Democrats in both Chambers got together to say what could we do to get the strength of the Senate bill and the strength of the House bill, and we actually did what I think you have a sense of, what I have spoken to already.

We took all the laws, all the instrumentalities, full access to the court, the House version, took the language of the Senate going fully to law, rather than regulation, and put them together. That is the bill we have before us.

Mr. Speaker, this is a bill that clearly has the support of most Members of Congress. It is one of those odd occasions when the House and Senate get together, and instead of taking the weaknesses of their two bills, took the strengths of their two bills.

But addressing the point made by the gentleman from Wisconsin [Mr. BARRETT] about frequent flyer mileage, I am partly, if not totally, responsible for the fact that it is not part of this legislation, and it is not part of this legislation because frequent flyer is not connected to the issues that were central to the whole concept.

What applies to the private sector should apply to us, and frequent flyer did not match that test. It is an important issue. It is an issue that I think will be dealt with either by the House Oversight Committee, or actually by a law of Congress, and I believe the gentleman will be dealt with because of his tenacity and his conviction that it is important.

This day and age, in this Congress, as we go through this process, the gentleman will find, notwithstanding the opening day, there will be open rule. He will be able to offer this amendment countless times on germaneness, and I believe that it will be passed by this Chamber, if it is not dealt with sooner by one of the committees of Congress.

Frequent flyer should not be used to go on vacations. I totally agree with the gentleman. I have signed onto the gentleman's resolution and told him I agree with him. I understand his point on this legislation, because there appears to be certainly a contrast. The Senate has it in theirs and we do not have it in ours.

Mr. HOYER. Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio [Mr. TRAFICIANT].

(Mr. TRAFICANT asked and was given permission to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I want to talk about some headlines we have not read dealing with security of Members of Congress and the Senate and the White House, able services provided by our Capitol Police.

Mr. Speaker, I want to stand in support of this bill, because for the first time we have an opportunity to treat our Capitol Police like every other Federal law enforcement agency, giving them the right to have a collective bargaining opportunity.

The morale in the department is a joke. There has been age discrimination, race discrimination, sex discrimination, and quite frankly, I brought it to the attention, time after time, of the former Democrat leadership, and they did nothing with it.

However, let me say this about this bill, it allows for a 2-year period before the Capitol Police is allowed to in fact bargain in good faith like this under the collective bargaining agreement. I plan to write to the Speaker, and I ask Members to join with me, that that be waived and the Capitol Police be treated like every other Federal law enforcement agency in our country.

This is an indictment on the Congress of the United States of America. I want to say again, think of the headlines we could have read that we have not read. Good men and women, not patronage positions anymore, but well-trained, who put their lives on the line every day and deal with some real security problems, have been treated as second-class citizens.

I am going to support this bill. I am going to write to the Speaker. I am gong to ask Members to join forces with me and sign on to that letter, that that 2-year period holding back that opportunity that is granted in this bill be waived, and there be an immediate implementation of that opportunity for the Capitol Police when this is enacted.

All this talk about the Senate, quite frankly, in the first Constitution the Senate was appointed by State legislators, and actually I thought it was better for the country. We would have had somebody looking out for the States' rights, and we would not have had a 50-percent fast track vote on GATT and NAFTA.

For all those concerned about the Senate, I agree with the gentleman from Connecticut [Mr. SHAYS], that I think we can take care of those inequities. I am sure that is not the intention of the gentleman from Connecticut and others.

I ask that Members support me in helping the Capitol Police. They have earned it. They have deserved it. I ask the gentleman from California [Mr. THOMAS] to give me a hand with that.

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I am pleased that we are moving forward with this bill, and I appreciate the generosity of the gentleman from Connecticut [Mr. SHAYS], who has been the major force behind it. I was glad to be able to work with him.

I was pleased that he also graciously mentioned, as I have said before, the former Speaker of this body, who did move it after he was persuaded that it was the right thing to do.

However, I am troubled by some aspects of it. This bill that we passed last year was totally bipartisan. The gentleman from Ohio [Mr. TRAFICANT] who preceded me talked about a problem in the bill.

I do not see any reason why the law enforcement people ought to have to wait 2 years. The problem is that we were not able to address it, because at no point has this bill been subject to amendment on the floor of the House. There is no reason for that.

□ 1210

We are told that we should compare the way the House is going to be run now with the way it was run.

This bill came to the floor in August of last year. As the gentleman from California pointed out, the bill passed the committee in July, it very soon thereafter came to the floor, and 14 amendments were made in order. Indeed, I know of no one who had an amendment who was turned away. Eight of those amendments allowed either exclusively or jointly Republican authors.

We had a bill that allowed 14 amendments and I know of no one who was turned down. This year it has twice come to the floor in a nonamendable fashion and it has flaws. One of those flaws is the frequent-flier mileage.

The gentleman from Connecticut says that it does not fit because this only applies to the private sector. But the private sector is not covered by the Freedom of Information Act. There is language in here that studies how to apply the Freedom of Information Act to Congress. I think we are going to find that it does not work. I am told by the gentleman from Maryland that was dropped. But it was in the bill when it came out of the house.

The fact is that the longer we delay on frequent-flier miles, the more Members of Congress will use frequent-flier miles in a way they should not do them and the taxpayer will be cheated of those frequent-flier miles.

The House voted on this last year. Because we did bring it forward in an open amendatory process, the gentlewoman's offering amendment was adopted.

There is no reason to allow this to continue, the frequent-flier abuse, other than an apparent quirk on the part of the Speaker.

Mr. HOYER. Mr. Speaker, I yield 1½ minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of this legislation. I introduced a bill a number of years ago called ''what's good for the goose is good for the gander'' which had exactly this same attitude toward it.

Let us talk, though, about the principle by which it comes which is of some concern. We are all delighted it is here, we are all going to vote for it.

There has been talk about muscle. I just wish there had been a little less muscle applied to this bill and a little more deliberation—it would have gotten to the same point probably almost as quickly—and a little more muscle last year when this bill passed the House, at least once, I believe twice, went over to the Senate where it died on Republican filibusters. So we could have, I think accommodated those needs.

I also regret, though, that when this bill came up on the House floor just a week ago, it was not made in order to allow an amendment to it or add the accompanying bill which has passed this House at least once, and I believe twice, which is lobby reform, to apply to Members of Congress the lobbying reform that is so important, as applying the rules concerning the private sector with employees.

Why could we have not also passed since it had already passed using the same principle that has been enunciated that if you took it up last year, you ought to be able to take it up without a hearing, ram it through this year, why could we have not taken up the lobbying reform bill in the same capacity? All those questions hang out there.

At any rate, I rise in strong support for this legislation.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Mr. Speaker, when the average American learns that Congress does not have to live under all of the laws and regulations that all of our citizens live under, they are appalled. They understand how difficult it is for a Congress to effectively legislate when they live isolated from the effects of the laws and the regulations that those laws produce.

At the first day of the last Congress, I submitted legislation that would apply to Congress all the laws and the regulations that they have applied to all of the rest of us and exempted themselves from. Several others submitted similar legislation. They were all combined in the Shays-Swett bill which passed the last Congress. Unfortunately, that died because of lack of action by the Senate.

So I was very pleased when at about 2 in the morning on the first long legislative day of this Congress that we passed that bill. We are now met today to discuss a bill from the Senate that embodies all of the essential features of the bill that we passed in the last Congress and again on that first long day of this Congress.

I am very pleased to rise in strong support of this bill. This is a great victory for the American people, because what it means is that from henceforth they are going to have a Congress that lives under the laws and the regulations that they passed, that all of the rest of the country has to live under, and the Congress is going to be much more effective in passing laws and in producing regulations through those laws when they have to live under all of the laws and regulations that they produce.

This bill does not do all that we need to do in reforming the Congress and producing congressional reliability but it certainly takes the first long, long step in the right direction.

I am very pleased today to rise in strong support of this legislation.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Speaker, one thing that a new Member is clear to do and that is to do her homework. I guess in doing my homework, even though just starting in the 104th Congress, I realize it was the Democratic Congress that raised this issue of congressional accountability for a number of terms, particularly in the last Congress, and I think it is very important to indicate how important this measure is but to indicate as well that the Democrats led out on this issue.

It is important to realize that we too must follow the laws of the land of the United States of America.

Calling the roll, the Fair Labor Standards Act, Title VII, the Americans With Disabilities Act, Age Discrimination, Family and Medical Leave, Occupational Safety and Health Act, Federal Labor Management Relations Act, Employee Polygraph Protection Act, Worker Adjustment and Retraining Notification.

As a local elected official there was no doubt that we had to comply with all those laws. They why not the U.S. Congress? I am certainly rising in support of this, but I ask clearly as we move toward making a determination by way of a vote that we too should be able to comply with the laws on frequent-flier miles.

I ask that we really raise that issue, that we realize that we must be truthful in what we do here in the U.S. Congress, and that we go all the way when we talk about congressional accountability.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I have a special interest in this bill as a former member of the Joint Committee on the Organization of Congress. I want to

commend the gentleman from Connecticut [Mr. SHAYS] for his tenacity on this bipartisan matter and to give the House credit for what it did last term in passing this bill and the Senate, finally, credit for catching up with the House.

Mr. Speaker, this bill, to be sure, affects Members. When I chaired the Equal Employment Opportunity Commission, what really bothered me was that thousands of employees here were also exempted, and that is really what the gravemen of this bill is. It should affect Members, but where the complaints are going to be filed most often are against staff who supervise others.

There is an important difference in this bill from legislation affecting the private sector. The Senate has removed the demographic section. I want Members to know that every private and public employer has to submit demographics on its employees. The House should remove this notion that it is exempt from our knowing whether or not we are in fact hiring fairly in committees.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I intend to vote for this bill, but the American people should note that there is nobody who has gotten on the floor today who has not expressed some reservation about the content of this bill. The reason for that is the process by which this bill is here. In that sense, it is business as usual and the American people ought to know that it is business as usual.

We come here without the ability to amend this bill even though as soon as this bill is debated, we will be off for the rest of the day. Last week we were in committee debating a balanced budget amendment and marking it up. At the end of the day, at 6, despite the fact that it was Wednesday afternoon and we were going home, we adjourned for the day. Still we cannot take the time to debate these issues that are important to the American people.

□ 1220

Mr. HOYER. Mr. Speaker, I yield myself my remaining 30 seconds.

Mr. Speaker, clearly we have a concern about the procedure, but more importantly than the procedure is the substance. The gentlewoman from the District of Columbia mentioned we are now extending to all our employees protections that we believe are appropriate for the employees of the American employers.

We believe this legislation is important. That is why under Democratic leadership we passed it last year, with the Shays-Swett bill, and that is why on this bill the overwhelming majority, if not unanimously, we will support this bill this year.

Mr. GOODLING. Mr. Speaker, I yield my remaining time to the gentleman from California [Mr. THOMAS].

The SPEAKER pro tempore (Mr. DREIER). The gentleman from California [Mr. THOMAS] is recognized for 2 minutes.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we began this process on January 4 and we moved the legislation to the Senate. We are considering today, on January 17, Senate bill 2, the Senate version of this legislation.

There will be no conference committee. This legislation will move directly to the President. The President has said that he will sign it into law. This process has taken 2 weeks.

For people to fully understand the impact or maybe I should say the weight of today's decision, this is simply the text of the laws, without any annotation or explanation, that are now going to be applied to the Congress that are already applied to the private sector.

I would tell my colleagues that S. 2 passed in the Senate 89 to 1. I believe the House should do the Senate one better. I would ask that the House pass S. 2.

Mr. GOSS. Mr. Speaker, it has long been known that Congress has a bad habit of passing laws without understanding the full impact they have on the American public—then it exempts itself from those same laws. In the 102d and 103d Congresses, I introduced a resolution to eliminate the special treatment that this institution has granted itself. Last Congress, I voted in favor of the Congressional Accountability Act which the House passed—but the Senate failed to approve.

During the final hours before adjournment of the 103d Congress, the House passed a watered-down version of the compliance bill as an amendment to the rules of the House. Although I am a strong advocate of congressional compliance, I felt compelled to vote against that weak-kneed resolution—which, to me, was nothing more than status quo dressed up to look like reform. Today we have an opportunity to move forward with real reform. I support S. 2, the Congressional Accountability Act, and I intend to vote for it. Congress is not, and should not be, above the law. It is time to move this institution into the real world of the laws that we expect the private sector to abide by.

Mr. FAZIO. Mr. Speaker, I am a strong supporter of S. 2, the Congressional Accountability Act. Unfortunately, I will not be present today to vote for this important measure—I am attending to the urgent needs of communities in my district that have been devastated by the recent flooding in northern California. If I were here, I would be proud to vote for the Congressional Accountability Act for the third time. In my absence, I submit this statement of support for the bill for the RECORD.

S. 2 fulfills our responsibility to grant the same protections and workplace standards that all other working Americans enjoy to our own employees in Congress. The Congressional Accountability Act continues the recent trend of Congress living by the rules we ask the rest of America to live by.

In recent years, we have enacted several major employee protection laws—the Americans with Disabilities Act, the Civil Rights Act of 1991 and the Family and Medical Leave Act. In each case, we applied the requirements of these laws to Congress just like they applied to the private sector. In addition, House rules provide House employees with protections afforded under the Fair Labor Standards Act and specify that House personnel actions shall be made ''free from discrimination based on race, color, national origin, religion, sex (including marital or parental status), disability, or age.''

S. 2 continues our efforts to bring Congress into compliance with other significant employee protection statutes. The Congressional Accountability Act will also require Congress to comply with the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Occupational Safety and Health Act, the Federal Labor Management Relations Act, the Employee Polygraph Protection Act, the Worker Adjustment and Retraining Act, and the Rehabilitation Act of 1973.

This legislation establishes an independent, nonpartisan Office of Compliance within the legislative branch to develop the regulations applying laws to Congress, and to resolve complaints. The Office, which would replace the existing House and Senate Offices of Fair Employment Practices, would be composed of a five-member Board of Directors, an Executive Director, a General Counsel, two Deputy Directors, and additional staff as may be required.

This act represents a positive change in how Congress treats its own employees. I strongly support this legislation and urge my colleagues to vote for this landmark congressional reform bill.

Mr. STUMP. Mr. Speaker, I rise in support of S. 2, the Congressional Accountability Act. It is high time that laws applied to the private sector workplace are made applicable to Congress as well. As chairman of the House Veterans' Affairs Committee, I am particularly pleased that S. 2 would provide for the enforcement of recently enacted veterans' employment and reemployment rights under Public Law 103–353 (October 13, 1994).

The Uniformed Services Employment and Reemployment Rights Act [USERRA] only allows aggrieved legislative branch employees the remedy of applying to the Office of Personnel Management [OPM] for a position in the executive branch, with an ensured offer of employment. Executive branch employees under USERRA have extensive enforcement rights including legal representation, Merit Systems Protection Board [MSPB] adjudication, and judicial review.

Now, under title II, section 206 of S. 2, eligible congressional employees could avail themselves of the extensive enforcement and dispute resolution procedures established in the new Office of Compliance, as well as judicial review.

Mr. Speaker, I am also pleased to see that the bill would require a study and recommendations by the Administrative Conference of the application of the workplace laws included in S. 2 to the General Accounting Office [GAO], Government Printing Office [GPO], and the Library of Congress. The study and recommendations would be due to the

Speaker of the House no later than December 31, 1996.

I commend Speaker GINGRICH and Majority Leader ARMEY for keeping their commitment to the American people in making the Accountability Act the first order of business of the House with H.R. 1. The Senate has added provisions in its version, S. 2. I especially wish to state my appreciation to Mr. SHAYS, who has led the House's effort on accountability, as well as to his staff for their openness and accessibility in crafting this legislation. Mr. Speaker, I urge my colleagues to favorably consider S. 2.

Mr. FAWELL. Mr. Speaker, I rise to commend the majority leadership for bringing this bill, S. 2, the Senate version of the Congressional Accountability Act, which the House passed on January 4, to the floor today. Consideration of this legislation can be directly traced to you and the new leadership in Congress who were committed to place this long overdue type of legislation on the front burner.

This bill, however, is far from perfect. And the full specifics as to the exact manner in which the eleven ''place of employment'' labor laws shall be applied to congressional employers do not, in many cases, correspond to the manner in which these laws apply to the private sector. In certain instances this is understandable, as in cases where the constitutional requirement of separation of powers proscribes executive agency enforcement of rules against the legislative branch. But, all in all, the fox—Congress—is still very much in charge of the chicken coop—employer and employee place of employment laws—and clearly Members of Congress are being treated in many instances with kid gloves when one looks at the matter from the perspective of the private sector.

For example, our private sector constituents would jump at the opportunity to live under the requirements contained in the section of the bill applying OSHA to Congress. There are no fines which are levied with a citation, as is the case in the private sector. The general counsel issues a citation and if the counsel determines that a violation has not been corrected, he may file a complaint with the Office of Compliance against the employing office. This, again, is a far cry from the realities with which our businessmen and women must contend. No civil penalties. No criminal penalties. If only Congress could be so understanding of private employers.

With regard to the OSHA section of S. 2, specifically section 215, it is my understanding from the House authors of the legislation, Mr. SHAYS and Mr. GOODLING, that the report required under this section concerning the general counsel's inspection of facilities for OSHA violations will be made available to the public. I strongly agree with this perspective, especially in light of the fact that there is no requirement in the bill that the general counsel file a complaint with the Office of Compliance against an employing office.

Mr. Speaker, there are positive aspects to the legislation. It does move clearly toward the concept that congressional employees should have the right, in instances of violations of place of employment labor laws by Members of Congress, to the same basic employee protections as possessed by employees in the private sector. And, significantly, this includes the right of congressional employees to seek a full de novo jury trial in Federal court, complete with general damages, court costs, and recovery of attorneys fees. It should be noted, however, that apparently no Member of Congress may be personally sued, that is, such a suit would be against an employee's employing office, a term of new art which avoids naming any Member of Congress as the specific responding party to such a law suit.

The bill does not allow, however, for such employees to obtain punitive damages against their congressional employers. In addition, there apparently is no personal liability of Members of Congress as to any damages, legal fees, or court costs awarded to any employee filing a claim against an employing office. This is not too analogous to what is facing the private sector employers who can generally be held personally liable for those types of damages under civil rights law, the Age Discrimination in Employment Act and the Americans With Disabilities Act.

Mr. Speaker, I do recognize, however, that this bill is the result of a compromise with the other body. In the final analysis, although the version of the bill before us today is geared to treat Congress more favorably than the private sector, it is still much better than what we have now, where Congress almost totally escapes the effects of place of employment labor laws which have been nonuniformly and haphazardly applied by Congress upon the private place of employment and quite often with provisions for disproportionate damages. So, it is indeed a step in the right direction, a first step, but a very meaningful step nonetheless.

I will support the legislation today, but more must be done to either: First, have these laws really apply to Congress in the same fashion in which they now apply to the private sector, or second, alleviate the often harsh, haphazard, rigid, and unreasonable fashion in which place of employment laws apply to the private sector. In fact, we might not be dealing with this issue today, if we had, in the first place, simply written our place of employment labor laws for the private sector with as much compassion as we have with this legislation. I stand ready to work with the leadership on both sides of the aisle to achieve either result, which should bring about a more uniform, flexible, understandable, and more understanding employment policy for America in the 21st century.

There is no doubt that as we have to do unto ourselves we learn better how to do unto others.

Ms. DUNN of Washington. Mr. Speaker, for too long, Congress has lived by a double-standard, passing dozens of laws, imposing hundreds of regulations on the private sector while at the same time exempting itself from those same laws and regulations.

How long has Congress enjoyed the double standard? Fifty-seven years later, Congress will finally be held accountable to the Fair Labor Standards Act of 1938, requiring a minimum wage and overtime pay for congressional staff; 31 years later, Congress will at last adhere to title 7 of the 1964 Civil Rights Act, prohibiting employment discrimination based on race, color, religion, sex, or national origin; and 25 years later, Congress will comply with the Occupational Health and Safety Act of 1970, making our U.S. Capitol and the House and Senate Office Buildings safer places to work and visit.

There is a whole host of other laws with which Congress must now comply: the Americans With Disabilities Act, the Age Discrimination in Employment Act, and the Family and Medical Leave Act to name few more.

Mr. Speaker, this is a sensible bill that accomplishes more than just apply all laws to Congress. While Congress still has a long, challenging journey ahead if we are to restore the public's confidence and faith in this institution, passing this congressional compliance legislation is a major step in that direction. Today, as we send this bill to be signed into law by President Clinton, we legislators will prove to the citizens of this Nation that we are committed to turning this place upside down, shaking it by its ankles, and accomplishing this long overdue reform.

Mrs. LINCOLN. Mr. Speaker, today I rise in strong support for S. 2, the Congressional Accountability Act. This piece of legislation will finally submit to Congress to the same laws it imposes on others. How can we expect to understand the implications of legislation we write if we aren't required to follow its rules? That, Mr. Speaker, is a glaring example of Congress being out of touch with middle America.

This initiative represents years of hard work in a bipartisan manner. Not only do I fully endorse this bill this Congress, I was also a cosponsor of similar legislation, H.R. 349, last year and fully supported H.R. 4822 when it passed the House overwhelmingly in August 1994. Unfortunately, efforts to pass legislation in the Senate died at the end of the 103d Congress.

For far too long, Congress has been writing and passing legislation that affects everyone but itself. It is evident that Congress must set the example and live under the rules it imposes on others. No longer will congressional employees be subject to discrimination, bad working environments, or other working related ills that other employees are protected from under our national laws. Our employees will have the avenues to address grievances in the workplace like any other American employee. They will have employee rights that have been denied to them for far too long.

I believe that this is a responsible, bipartisan bill and urge its immediate adoption.

Mr. RADANOVICH. Mr. Speaker, the lesson that what is sauce for the goose also should be for the gander is learned from early childhood. Yet, it seems to have been no more than a fantasy for Congress.

Today, I hope this House by its vote will make a simple declaration, saying that if we think it worthy that American business is required to operate under these several sets of workplace rules, then we on Capitol Hill are willing to be regulated by them as well.

There are two benefits to be derived from securing final passage of S. 2, the Congressional Accountability Act that embodies the spirit and most of the substance of H.R. 1, which we passed on the day we began this 104th Congress.

The first value of this reform in the way we do business is that those men and women we employ here and in our district offices should not be prejudiced with respect to redress of employment wrongs simply because they are on our payrolls.

The second significance of the Shays Act was well related by the Wall Street Journal editorial of January 4 that called H.R. 1 a

"very potent reform" and went on to observe that "forcing Members to live under the laws they pass may also have a useful, modifying effect on what Congress decides to pass."

Mr. Speaker, all of us, I'm sure, have received—and welcome—thousands of constituent communications imploring us to keep faith with provisions of the Contract With America. Even before this Congress began, one of my constituents, Mel Cellini of Madera, CA, shared with me a copy of his letter to Speaker GINGRICH. Noting Mr. Cellini's statement that there must be a change in the fact that "Congress has exempted itself from mandates imposed on the rest of society." I take pleasure in making the text of his letter a part of my statement of support for our passage of the Congressional Accountability Act.

The letter follows:

DECEMBER 4, 1994.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives, Washington, DC.

DEAR SIR: My wife and I are approaching 50 years of age. We have been increasingly disillusioned with the operation of the federal government. The future our two children face is of great concern to the two of us. As long as I can remember the federal government has continued to intrude into our lives via control and taxation. The programs have not only been intrusive, but also quite expensive.

Now one child is in college and the other will soon be going to college. Our dismay with the evaporation of the American dream has been discussed in our family. It is hard to relate to the dream sine all we hear from the media are the issues of why we need to contribute and do more for those that refuse to help themselves.

Congress has exempted itself from mandates imposed on the rest of society. This must change.

I backed our local Republican candidate with the fervor that this was our last chance. Yes, George Radanovich won. I truly believe this is a new dawn. The opportunity for a refocused government is here. Just Make Sure the Government Is Out of Our Lives and Our Pocketbook.

Please, do not back down on the ten point contract that the Republicans agreed to fulfill in the First 100 days.

Finally, ignore the personal attacks the media is doing to you. We are behind you 'all the way.' I can hardly wait for the 1995 congress to begin.

Again, Congratulations, and thank you.

Sincerely,

MEL CELLINI.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. THOMAS] that the House suspend the rules and pass the Senate bill, S. 2.

The question was taken.

Mr. THOMAS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks in the RECORD on the subject of the Senate bill, S. 2.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. GILLMOR] is recognized for 5 minutes.

[Mr. GILLMOR addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

[Mr. OWENS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. MARTINI] is recognized for 5 minutes.

[Mr. MARTINI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 5 minutes.

[Mr. SKAGGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

MONETARY CRISIS IN MEXICO

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Michigan [Mr. BONIOR] is recognized for 30 minutes as the minority whip.

Mr. BONIOR. Mr. Speaker, the crisis in Mexico today is very serious and has a direct effect on the United States. But if the American people are going to be asked to guarantee billions, up to $40 billion in loans in Mexico, we have a right to demand that Mexico meet certain conditions in return.

The primary question we have got to answer is simply this: How can we address the problem in Mexico in such a way that ensures that working families on both sides of the border are helped and not hurt by this deal? The Mexican system is riddled with deep structural, political, and economic problems. If allowed to continue to go unchecked, these problems will not only continue to hurt Mexican workers, they will also continue to have a direct impact on the jobs and the wages and the living standards of American workers.

The last time Mexico experienced a similar crisis in the early 1980's, they responded by cutting wages in half for Mexican workers. That was their response, even though Mexican manufacturing profits went through the roof.

In effect it created a situation where Mexico had a boom in billionaires. Members heard me right, billionaires, not millionaires. Yet American workers were forced to compete with Mexican workers who were earning 58 cents an hour. We lost over a half million jobs as a result of that policy, 500,000 American jobs. And all indications today are that Mexico is reading from that exact same playbook, even though Mexican wages are already too low. The devaluation of the peso has driven down their purchasing power by another 40 percent. Yet rather than pledging to raise the standard of living, President Zedillo's economic plan calls for a freeze on wages.

At this rate Mexico is never going to be able to afford to buy the products that we make, and of course that has been the great success of America, that we built a middle class with the purchasing power to purchase.

We have got to find a way to export products to Mexico, not just our jobs and our capital. We had a chance to address this problem when we negotiated the NAFTA agreement. We had a chance to tie wages to productivity and give the Mexican workers more power to bargain for better wages, but NAFTA was a missed opportunity to make real reform. I do not think we can afford to miss that opportunity again.

I would suggest that before we ask American taxpayers to send a dime to Mexico, we should insist that Mexico meet five specific conditions. Let me enumerate them for my colleagues this afternoon.

First, we should insist that Mexico agree to tie wages to productivity. Now what do I mean by that?

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In the past decade, Mexican workers have not, and I repeat they have not, reaped the rewards of their hard work, and they do work hard. They are very productive workers. Their productivity increased by 64 percent since 1980.

What happened to their wages? Their wages actually dropped by 31 percent. Prior to the devaluation of the peso over the last several weeks, the wage of a Mexican worker was 69 percent—69 percent—of what it was back in 1980. It was not even worth the value of what it was in 1980.

Former President Salinas recognized this problem when he pledged to tie wages to productivity 2 years ago during the negotiations within his own country, and the debate over NAFTA. But that link has not materialized, and we, I think, should insist that it does.

Now, second, we should insist that the Mexican Government extend fundamental rights to the workers that